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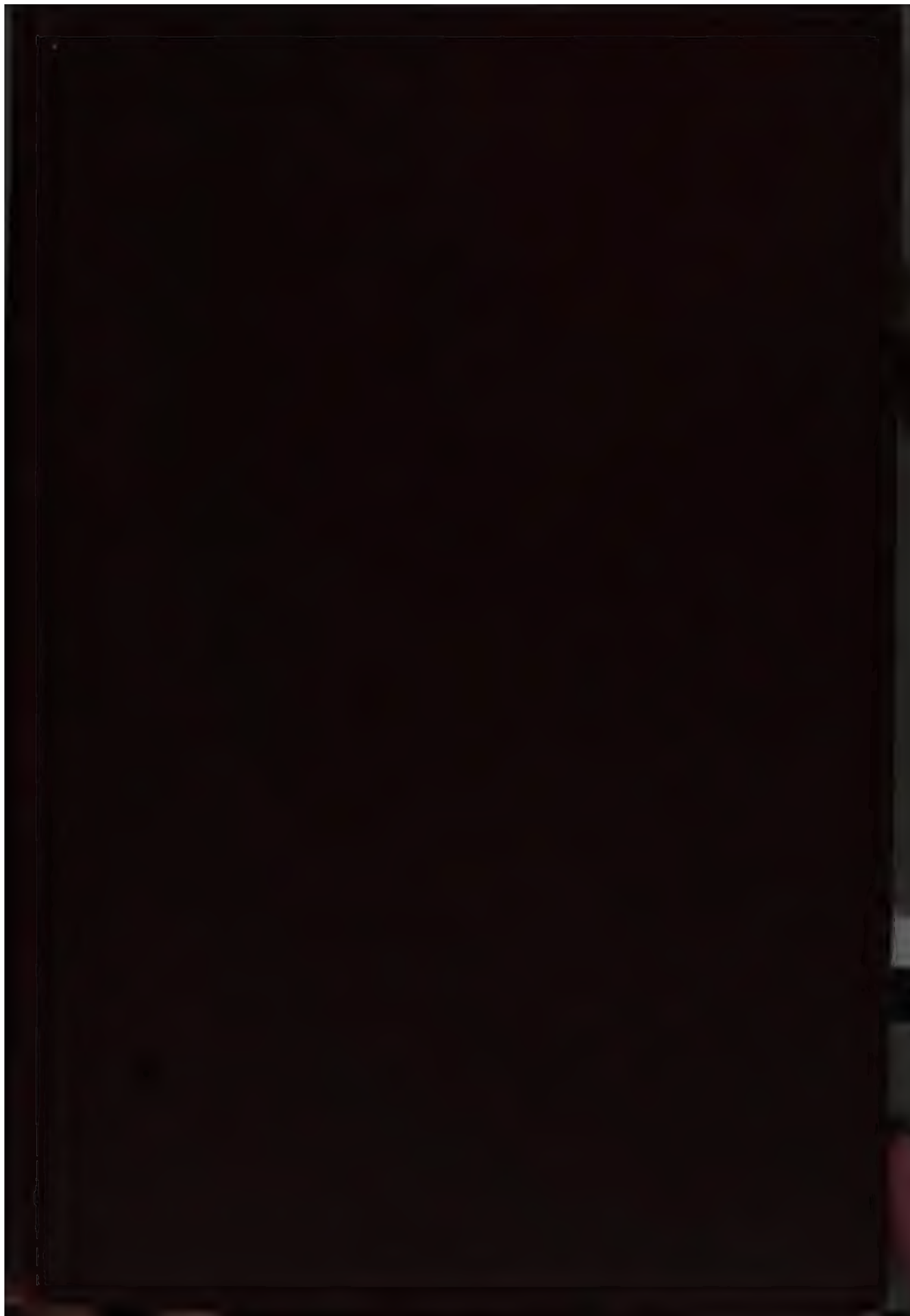
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WILLIAM BRIDPORT



Tho. Williams.

From a miniature of 1830 by Bridport, in possession of the
Misses Williams, Philadelphia

The
Life and Speeches
OF
Thomas Williams

Orator, Statesman and Jurist

1806-1872

Founder of the Whig and Republican Parties

By

BURTON ALVA KONKLE

Author of

"The Life and Times of Thomas Smith, 1745-1827"

Chiefly associated with the Historical Work of the Pennsylvania
War Association, and Member of the Pennsylvania Historical
Society and American Historical Association

With an Introduction by

HON. PHILANDER CHASE KNOX, LL. D.

United States Senator from Pennsylvania

VOLUME I

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ABEL GAYNARD

TO
MY FATHER
SIMON KENTON KONKLE
1836-1905

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Preface

A foreword to these volumes would hardly be possible without first expressing to historical students the author's grateful appreciation of most generous recognition given to his previous work—"The Life and Times of Thomas Smith, 1745-1809, a Pennsylvania Member of the Continental Congress." For the present work grew out of essentially the same conditions, is characterized by practically the same method, and is issued in a style uniform with that volume. Since these conditions and that method have been explained in the previous preface, they need only be referred to here; and since this mention of the work can hardly be avoided, it is a fortunate circumstance, thoroughly appreciated by the author, that it can be accompanied by his expression of gratitude for a generous recognition from so high sources.

The location of the papers of Thomas Williams, 1806-1872, a founder of the Whig and Republican parties, and the fresh light they cast on the great period from Jackson to Grant, led the author into the preparation of the present work; and chiefly because Williams was an orator of widely recognized culture and power, among a generation now all but past, whose speeches, at the various crises in a period of almost forty years of public life, if taken consecutively and in their appropriate setting, are in themselves eloquent and vivid contemporary history of every step in that wonderful period—carrying in them its very atmosphere. The importance thus attached to his addresses necessitated two volumes, in which, it may be noted in passing, the pages are numbered continuously, with the entire index in the second and the tables of contents and illustrations appropriately divided between them.

While it is impossible to note all the courtesies extended to the author during the long preparation of this

provincially and nationally—and, after choosing some character that was prominent in them, present the reader to original sources, under the form of a “Life and Times” or “Life and Speeches” of the individual chosen. In his Judge Smith are the movements centering about the long contest over the Pennsylvania Constitution of 1776, which instrument was characterized chiefly by the feature of a single branch Legislature. In the present volumes—“The Life and Speeches of Thomas Williams, 1806-1872, a Founder of the Whig and Republican Parties”—he takes a later period and a somewhat modified method. Mr. Williams, who died the year before the present writer made his home in Pittsburgh and who was known to him only by reputation, was an eminent lawyer, but more particularly an orator of considerable culture and power. He became a spokesman of one element of public opinion from the time of the uprising against President Jackson, in the crusade against the United States Bank, and so continued until nearly the close of his life, a period of about forty years. In consequence he represents the Whig and Republican movements, culminating with the impeachment of President Johnson, of which he was a leading manager—in a striking manner in some of his leading orations and speeches. He was an orator of the old school and his addresses carry the atmosphere of the contests of his time. He was a leader of certain popular movements, also, notably that against municipal subscription to railways, and his addresses on these are very informing. He was a fearless and independent thinker, a unique mingling of the jurist and propagandist, eloquent and learned, and withal a man and citizen of the purest motives and character. A leader of the Whigs, he became the first Pennsylvania member of the Republican National Executive Committee. His services in the two branches of the Legislature and in Congress were of the first order. His addresses have been made an integral part of the story.

Such studies as this serve to make the present generation appreciate more fully both the problems of previous generations and our own. The first-hand views of those times, resulting from the author's method, give a vividness and reality to the past and a consequent sense of its continuity with the present that are both most helpful.

The author's method also does not provide for the expression of his own opinions, but rather presents the material upon which the reader himself may form his judgments. The author presents his story, but without advocacy. The man, the fact and the event speak for themselves.

PHILANDER C. KNOX.

Valley Forge, July 17, 1905.

CHAPTER I

HIS FOREFATHERS NEAR THE CHESAPEAKE AND SUSQUEHANNA AND WHAT THEY HEAR OF "THE GATEWAY TO THE GREAT WEST"

1785

Not all who settled in the beautiful landscapes at the head of the Chesapeake's waters, in the days of the Penns and the Baltimores, knew they had chosen the tidewater landing nearest to the picturesque amphitheatre at the headwaters of La Belle Riviere, Ohio, beyond the mountains, although those forks were the key to solitudes so vast and rich as to be counted by many an explorer the promised land of all the world. Those who had the vision of a general both knew it and were concerned about it, and that, too, right early. The Ohio Company, with their line of storehouses and forts along the trails beyond the Potomac passes, were among the concerned, and when young Washington widened some of those paths for his swivel guns, it became evident that both the colonial and Crown governments had also become vitally concerned in this being the nearest approach. Thereafter probably few about the blue waters of the Chesapeake but were conscious of the cloud, no larger than a man's hand, ever rising at the mouth of the Monongahela and threatening them, down even to the days of the passing of both the Penns and Baltimores.

Nor did all those who came to that rich region, of about a score or so of miles at the head of the Chesapeake, between the Susquehanna and the Delaware, know whether they were in the dominion of Quaker or Catholic. Neither the lines between Penn's New Castle County and the Cecil County of Lord Baltimore, nor again between the latter and Penn's Chester County on the north, had yet been run, and both proprietors granted lands

in all three counties unwittingly at times, before the days of Mason and Dixon or the arc-and-tangent lines of Delaware. So when Penn granted the Welsh a tract westward of New Castle, almost to the banks of the Elk River, and likewise granted the Friends some sections called the Nottingham Lots, a few miles northwestward toward the Susquehanna, the planters little dreamed that they were in Lord Baltimore's Cecil County.¹ Nor did the many Welsh Presbyterians who bought land in the first tract, nor the Scotch-Irish Presbyterians who purchased Nottingham land, realize it fully until Mason and Dixon made it clear and final in 1767.

Amidst these uncertainties, however, nearly all knew beyond the possibility of a doubt that the liberty of conscience and freedom of thought, for which Penn's colonies were famous, would here be assured to them, as well as freedom of education, which always followed in Presbyterian and other communities that emphasized education. From the time that Henry Reynolds, an original owner of one of the Nottingham Lots or tracts, was said to have made the beginnings of the village of Rising Sun, the settlement of planters which grew up about it, and which was so largely Presbyterian, was destined to be peculiarly fortunate in these respects. A prosperous church stood on the brow of the hill, just northwest of the village, which attracted the great preacher Whitefield, and his burning eloquence and new truth caused such an increase in numbers and such a division in regard to the new teachings, that, in 1741, a second church was built "in the meadow across the brook," just west of the old one. This latter was destined to have a mighty influence, not only upon its immediate community, in stamping upon it belief in the highest standards of classical education, but on all the middle colonies where the name of its great pastor and the school he organized there left their impress. It was in 1744 that Rev. Samuel Finley became their leader and soon founded Nottingham Academy near at hand when he was scarcely thirty years of age.² He

¹ Map in Johnston's "History of Cecil County, Maryland," 1881.

² Maclean's "History of the College of New Jersey," 1877, Vol. I, p. 278, and Johnston's "Cecil County," p. 278.

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MAP SHOWING THE REGION OF THE HEADWATERS OF THE CHESAPEAKE
After map in the "History of Cecil County, Maryland," by George Johnston, 1881

had been educated in the old "Log College," out of which sprang Princeton, and for the next seventeen years there grew up under the inspiration of his personality men like Dr. Benjamin Rush, Rev. Dr. John Ewing, Governor Martin, of North Carolina; Governor Henry, of Maryland; Colonel John Bayard, Rev. Dr. W. M. Tennent, of Pennsylvania; Rev. Dr. James Waddell, of Virginia, and others of like character. His fame as an educator was such that by 1759 he was thought of for the fourth president of the College of New Jersey, at Princeton, of which he was a trustee, and two years later he was spontaneously acknowledged to be the man to head the chief educational institution of the Presbyterians in the American colonies as its fifth president—the last before Witherspoon—and thereafter Nottingham Academy was without the founder who had made it one of the most celebrated schools of its day.

Of such a settlement of planters, dominated by the high value set on classical education, Robert Williams, merchant and planter, became a part in the years before the Revolution. Of his antecedents, however, so little is known it can only be affirmed that he is the first known of his family, and was believed by his grandson to have been of Welsh blood.¹ Of Robert's brother, Captain Richard Williams, it is known that he was a soldier of the Revolution as early as 1777, at Germantown, and became one of the early settlers in the upper Ligonier Valley, eastward of Pittsburgh, not far from General St. Clair's home, in the days when it was necessary for him to build a blockhouse on his land on Four-Mile Run, then and long afterwards known as "Fort Williams."² Robert

¹ It is possible that his parents were Robert and Catherine Williams, who lived in or near Charlestown as early as January, 1747, five years after the town was founded, and held a mortgage on lot No. 108 when this was the trading town for that region. His will, also among the records at Elkton, Md., dated September 26, 1765, bequeaths a Charlestown lot and other property to a son, Robert, and names his wife Catherine and son Thomas as executors. The persistence of these family names makes it possible, though not conclusive. As early as June 13, 1751, there is record of a Robert Williams as "Deputy Ranger" there. Some have suggested that the Williams family were Scotch-Irish, but there seems to appear no confirmation of it.

² Exact data of Captain Williams' military record is not obtainable. Some ancestor of Robert's grandson was in that battle, according to a speech in the Pennsylvania *Legislative Record* for 1861, p. 93, and family tradition makes that one Captain Richard. Albert's "History of Westmoreland County, Pennsylvania," 1882, p. 716, shows that he was well known as Captain Williams and prominent in that region. The archives of the Record and Pension Office of the War

therefore, early became interested in the region of the source of the Ohio, but he remained as the head of one of the well-known families in Cecil County in the days when old Charlestown was its trading and post port. He had married Esther Meek, a daughter of an influential family, and of their family Catherine, Esther, Thomas, Richard and Robert, Jr., the youngest, will enlist the chief interest, although it must be noted that in succeeding years the elder brother, Thomas, took his father's place as a prominent planter in the region of Rising Sun, where, in 1803, he became one of the eight commissioners authorized to conduct a lottery as a means to more effectively unite the two old Nottingham churches, separated since the days of Whitefield, by securing them a new house of worship.¹

Robert, Jr., who was born some time after 1773, lost his mother within the next dozen years, for it is known that his father was married about the 28th of February, 1786, to Mary, a sister of Major Abraham Kirkpatrick, who was "as brave a man," says Neville B. Craig, the Pittsburgh historian, "as drew his sword in the struggle for independence."² A few months before this marriage, Major Kirkpatrick and his friend and prospective brother-in-law, Robert Williams, Sr., made a visit to the region of the headwaters of the Ohio, the objective of the Major being Pittsburgh, where his old colonel and brother-in-law, John Neville, had lived for many years, and that of Mr. Williams being the home of "Capt. Rich'd Williams, in Ligonier Valley, on the glade road."³ The one was destined to himself become a notable resi-

Department show him to have been a captain in the First Battalion, Westmoreland County, Pennsylvania Troops, on August 16, 1777, and also to have been, from February 10 to March 10, 1778, a captain in Colonel Alexander Bar's detachment of Westmoreland militia in an expedition to the Indian country. Dr. John W. Jordan is authority for the statement that the Westmoreland troops were at Germantown.

¹ Johnston's "Cecil County," p. 281. Thomas died in 1830 at the age of fifty-seven, and was buried in the yard of the West Nottingham Presbyterian Church. He was thus born in 1773. Catherine married John Matthews and Esther became Mrs. — McCullough. Their mother's sister was married to a Lamar.

² The marriage license was issued on that date, as is recorded at Elkton, Md. "The History of Pittsburgh," by Neville B. Craig, 1851, p. 231. Major Kirkpatrick became, in 1777, a captain in Colonel John Neville's Fourth Virginia Infantry. Hamersly's Army Register, p. 27.

³ Neville and Kirkpatrick married daughters of the Oldham family, also a well-known one. Address of Captain Williams on a letter of November 19, 1785.



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dent of Pittsburgh and the other to furnish it a still more notable descendant.

In the long days of travel on his pack horse over the mountains, how Mr. Williams must have weighed the pros and cons of the historic past, promising present and possible future of this interesting region!¹ The forks of the Ohio, which had been fought over by the two greatest nations years before, and afterwards was a bone of fierce contention between two of the greatest colonies even then all too fresh in his memory, not to speak of the knife and tomahawk, ever ready to appear out of the forests to wrest them from the actual settlers—these forks were now practically safe. It was only the year before that the Indians on the farther side of the Allegheny and Ohio were removed, and the Penns, who owned the site, laid out some lots about the fort on the point. One of the commissioners—a Virginian, from the State which had recently lost it—who aided in treating with the Indians for their removal, wrote rather pessimistic impressions of the new place at the time: "The Monongahela at Fort Pitt," wrote the Hon. Arthur Lee, on December 17, 1784, "is about two hundred and eighty [yards] wide. The Allegheny, about two hundred. The former frequently overflows, and falls much sooner than the latter, owing to its rapidity and extent. The banks of the Monongahela on the west, or opposite side to Pittsburgh, are steep close to the water, and about two hundred yards high. About a third of the way from the top is a vein of coal, above one of the rocks. The coal is burnt in the town, and is considered very good. The property of this and of the town is in the Penns. They have lotted out the face of the hill, at thirty pounds a lot, to dig coal as far in as the perpendicular falling from the summit of the bank. Fort Pitt is regularly built, cost the Crown £600, and is commanded by cannon from the opposite bank of the Monongahela, and from a hill above the town called Grant's Hill," because explains Mr. Lee, of the disaster there to one of General Forbes' forces.

¹ See "The Life and Times of Thomas Smith, 1745-1809, a Pennsylvania Member of the Continental Congress," by Burton Alva Konkle, 1904, for maps and other material illustrating the progress of this region previous to this date.

"Pittsburgh," he continues, in an even more markedly pessimistic vein, "is inhabited almost entirely by Scots and Irish, who live in paltry log houses, and are as dirty as in the north of Ireland, or even Scotland. There is a great deal of small trade carried on; the goods being brought at the vast expense of forty-five shillings per cwt., from Philadelphia and Baltimore. They take in the shops money, wheat flour and skins. There are in the town four attorneys, two doctors, and not a priest of any persuasion, nor church, nor chapel; so that they are likely to be damned, without *the benefit of clergy*. The rivers encroach fast on the town; and to such a degree, that, a gentleman told me, the Allegheny had within thirty years of *his* memory, carried away one hundred yards. The place, *I believe*, will never be very considerable."¹

This view was not shared by the inhabitants, nor the large numbers who made application for lots in the new town, as shall presently appear. The growing settlements on the south side of the Ohio all the way down into Kentucky, the settlement of the public lands question by Congress, the opening up of Indian lands north of the Ohio, and the early prospect for a great northwest territory above the Ohio conspired to make the strategic and economic value of Pittsburgh a matter of common belief. So some time after Mr. Robert Williams arrived at Fort Williams "on the glade road," in the upper Ligonier Valley, there came from Pittsburgh a letter from Major Kirkpatrick, dated November 19, 1785, which said: "Agreeable to my promise I have well examined the Lotts in this Town. The No. is as follows Viz. No. 127 / 257, 258, 259 / 118, 117, 116, 115 / 114, 113, 112, 111 / 119, 120, 121, 122, / 400, 399, 445—/ 395, 396 / 401, 402, 403, 404 / 110, 109, 108, 107 / 106, 105, 104, 103. Now Sir any of these Lotts is I think the best Lotts now to be patented. Their situation is chief of them in and about the 2d range of Lotts on the Allegheny River. However 'tis probable some of them is already pattented. if the first

¹ Craig's "History of Pittsburgh," 1851, pp. 185-7. The Virginians who had recently lost the Fort Pitt region to Pennsylvania were liable to be in an indifferent mood toward the subject. The cost of Fort Pitt is given in much larger figures elsewhere.

I have set down is taken take the next and so on. I find a push will be made for Lotts in Town and applications will no doubt be made for some of the best of these Lotts before you arrive at Philadelphia unless you are quick. I wish I had sent money with you, but you have money enough—take as many as you will. I will take all or as many off your hands as you please. * * * Major Hoofnagle gose to Philadelphia Tuesday or Wednesday next—he will take as many as he can raise money for himself and his friends. This will be a very advantageous piece of business and should not be delayed—let me know before you leave your brothers if you will go immediately to Phila. I believe the numbers will be best this way No. 127, 119, 118, 117, 116, 115, 120, 121, 122, 114, 113, 112, 111, 400, 399, 445. These last four is triangular Lotts and contain nearly double the quantity as the others. These Lotts will be £10 each and 25 pr. ct. on corner Lotts. The first range of Lotts on the Allegheny River is £15, however there is none of them to be had now that I would advise to have anything to do with. Make pen [Penn] give you a patent in which he will guarantee (i. e.) warrant and defend the Title. Tell him so, however take such as he will give. Genl. St. Clair is in Town pushing for Lotts with all his might. Mr. Tench Francis who dose business in Bank in Chestnut Street is the man who will do the business for you. A Mr. Peter Miller who is with him will draw the Patent on Parchment. One patent [will] do for all you take and that [] will cost you 3 dollars. Francis [may] not wish to give so many Lotts to [one] man—you can tell him they are for [] friends. Let me know if you propose coming to Pittsburgh in the spring. [Please] make my compts. to Capt. Williams family.

I am yr Ob Servt

“A. Kirkpatrick”¹

Mr. Williams had evidently gone back to Cecil County, however, for Major Kirkpatrick in another letter from “Col. Neville’s,” on December 4th, shows some anxiety about it and even writes again back in Richmond,

¹ Letter among the Williams papers in possession of the Misses Williams, Philadelphia. [] indicate mutilation of MSS.

Virginia, the 26th of January (1786), addressing it to "near Chas. Town, Cecil County," and again writes on February 23d, still with no reply. In a postscript of the last-mentioned letter the Major, who has determined to settle and build in Pittsburgh, gently urges his brother-in-law to also cast in his lot there. "I think," he writes, "that you must have determined before this time whether you will come to Pittsburgh to live at all or no. You ought to determine at once and fix yourself—if you come the sooner the better as Lotts and Land will [] increase in Value and other people fix themselves in the business you propose. 'tis not worth your while to stay to collect debts * * * 'tis doing nothing to stay there unless in some good business."¹ It was the 12th of April, however, before Mr. Williams replied to these letters and showed that he had taken out a patent for Pittsburgh lots and the Major acknowledged receipt of it on the 22d of June.² There is no evidence, however, that Mr. Williams changed his residence from old Cecil County, nor indeed is anything known of his life after this date.³

His property at Pittsburgh, still in Westmoreland, the last of the colonial counties, advanced with the rapid rise of the new town. Scarcely a month had passed after Major Kirkpatrick received Mr. Williams' letter when there appeared the first paper west of the mountains, the *Pittsburgh Gazette*, on July 29th (1786).⁴ In its pages one of the "four lawyers," a graduate of Princeton and

¹ The Williams papers. Major Kirkpatrick himself was buying and selling largely in military lands on the Scioto and Miami Rivers. He speaks of the lands at £80, £100 and £125 per thousand acres.

² The lots that Robert Williams, Sr., purchased were Nos. 112, 113 and 114, being all of the block bounded by Sixth, Liberty and Penn streets and Cecil alley, except the lot on Sixth street; 343, the lot covering the northern side of Fourth avenue between Market street and Jail alley, now called Decatur street, and 400, the triangle bounded by Fifth avenue, Market and Liberty streets. These were patented December 15, 1785. Other property was bought later. It should be noted that Sixth street was then called St. Clair street, and those unfamiliar with Pittsburgh may note that the numbered thoroughfares called streets are those in the Allegheny River strips at right angles to the river, while those called avenues are in the remainder and parallel to the Monongahela—a very important distinction for the bewildered traveler to keep in mind.

³ Robert Williams, Sr., left no will, so that it is possible he may have died suddenly not very long after his second marriage.

⁴ The best file of the *Gazette* preserved to us is, at this writing, in the remains of the old Mercantile Library, of Pittsburgh, which was purchased by the Knoxville Land Improvement Company and is now in the Knoxville school building. There is no complete file, but with the aid of those at Carnegie Institute and Allegheny a good approximation is reached.

afterwards distinguished as a writer, lawyer and Judge of the Supreme Court, Hugh Henry Brackenridge, pictures Pittsburgh in classic atmosphere. "At the head of the Ohio," reads one paragraph, "stands the town of Pittsburgh, on an angular piece of ground, the two rivers forming the sides of the angle. Just at the point stood, when I first came to this country [1781], a tree, leaning against which I have often overlooked the wave, or committing my garments to its shade have bathed in its transparent tide. How have I regretted its undeserved fate when the early winter's flood tore it from the roots and left the bank bare.

"On this point stood the old French fort known by the name of Fort Duquesne, which was evacuated and blown up by the French in the campaign of the British under Gen. Forbes. The appearance of the ditch and mound, with the salient angles and bastions still remains, so as to prevent the perfect level of the ground which otherwise would exist. It has been long overgrown with the finest verdure, and depastured on by cattle; but since the town has been laid out it has been enclosed and buildings erected.

"Just above these works is the present garrison, built by Gen. Stanwix, and is said to have cost the crown of Britain £60,000. Be that as it may, it has been a work of great labor and of little use—for, situated on a plain, it is commanded by heights and rising grounds on every side, and some at less than the distance of a mile. The fortification is regular, constructed according to the rules of art, and about three years ago, put into good repair by Gen. Irwin who commanded at this post. It has the advantage of an excellent magazine, built of stone; but the time is come, and it is hoped will not again return, when the use of this garrison is at an end. There is a line of posts below it on the Ohio river, to the distance of three hundred miles. The savages come to this place for trade, not for war, and any future contest that we may have with them, will be on the heads of the more northern rivers that fall into the Mississippi."

After describing the apple and peach orchards and gardens on the Allegheny banks, and sylvan scenes on

the Monongahela hills, with "head and brow beset with green and flowers," where on a gala day, "approaching in the appearance of a river god, a swain begirt with weeds natural to these streams, and crowned with leaves of the sugar tree, hailed us, and gave prophetic hints of the grandeur of our future empire," he says of an island in the river, "when the poet comes with his enchanting song to pour his magic numbers on this scene, this little island may aspire to live with those in the Aegean sea, where the song of Homer drew the image of delight, or where the Cam or Isis embracing in their bosoms gems like these, are sung by Milton, father of the modern bards. * * *

"The town of Pittsburgh, as at present built, stands chiefly on what is called the third bank; that is, the third rising of the ground above the Allegheny water. For there is the first bank, which confines the river at the present time; and about three hundred feet removed is a second like the falling of a garden; then a third, at the distance of about three hundred yards; and lastly, a fourth bank, all of easy inclination and parallel with the Allegheny river."

Speaking of about one hundred dwelling houses and about fifteen hundred population in the town he notes the large size of families and the annual doubling of population from that source and other new arrivals, adding, "In the fall of the year and during the winter season, there is usually a good concourse of strangers at this place, from the different states, about to descend the river to the westward, or to make excursions into the uninhabited and adjoining country. These with the inhabitants of the town spend the evening in parties at the different houses, or at public balls, where they are surprised to find an elegant assembly of ladies, not to be surpassed in beauty and accomplishments perhaps by any on the continent.

"It must appear like enchantment to a stranger," he continues with glowing western enthusiasm, "who after travelling an hundred miles from the settlements, accross a dreary mountain, and through the adjoining country, where in many places the spurs of the mountains still

continue, and cultivation does not always show itself, to see, all at once, and almost on the verge of the inhabited globe, a town with smoking chimneys, halls lighted with splendor, ladies and gentlemen assembled, various music, and the mazes of the dance. He may suppose it to be the effect of magic, or that he is come into a new world where there is all the refinement of the former and more benevolence of heart."

With this increase of population there grew up something of a rivalry among the various settlements and, nearly a year before the *Gazette* appeared, there was a demand for the county seat question to be settled and commissioners had chosen a compromise site on the north and west branches of the Sewickley and called it Greensburgh, while two months after the *Gazette* appeared court was held in old Hannastown—for the last time. The new arrivals poured in so rapidly that the next year after the appearance of the *Gazette* Allegheny town was laid out and it only required about another year, and the creation of the great Northwest Territory of 1787, to make it plain a new county was necessary, with Pittsburgh as its capital. These events, with the completion of the great Federal Constitution, gave marvelous stimulation to the western country, while late in 1788 the Legislature, in response to the demand, carved out Allegheny County, after which there very soon appeared a hall of justice not far from the walls of old Fort Pitt.

Whether the successful ventures of Robert Williams, Sr., at Pittsburgh led him also to invest in land in and about the new county seat at Greensburgh is not known, but that both town and farm lands were owned by either himself or his youngest son, Robert, within that time is known, and that not so many years thereafter Robert, Jr., was one of Greensburgh's leading citizens and possessor of much of his father's property in the West.¹ It is further known that, some time about the close of that century, he won and married the daughter of one

¹ In the *Greensburgh Farmers' Register* for June 14, 1799, is given the borough incorporation act, which mentions Robert Williams' land in one of the boundaries. In tax lists of 1802, in the *Register* for 20th of February, Robert is quoted as owning 402½ acres.

of Greensburgh's well-known citizens, Simon Singer, named Agnes, a woman of great strength of character.¹

And they selected a spot for their home in Greensburgh at the corner of Main and Pittsburgh streets—on the great highway over which flowed for so many, many years that splendid stream of population which was even then hurrying on to fill up and make glad the vast solitudes of the mighty West. Even so late as 1818 an English traveler through Greensburgh writes: "From Greensburgh to Pittsburgh, the improvement, in size and quality of the houses, is evident; and the cultivation and condition of the land are much superior. Many places bear the evident marks of wealth; the criterion for ascertaining which is, in this country, very tangible. Recurring to my old plan of estimation, I passed on my road from Chambersburgh to Pittsburgh, being 153 miles, one hundred and three stage-waggon, drawn by four and six horses, proceeding from Philadelphia and Baltimore to Pittsburgh,—seventy-nine from Pittsburgh to Baltimore and Philadelphia,—sixty-three waggon, with families, from the several places following:—twenty from Massachusetts,—ten from the district of Maine,—fourteen from Jersey,—thirteen from Connecticut,—two from Maryland,—one from Pennsylvania,—one from England,—one from Holland,—and one from Ireland; about two hundred persons on horse-back,—twenty on foot,—one beggar, one family with their waggon, returning from Cincinnati, entirely disappointed—a circumstance which, though rare, is by no means, as some might suppose, miraculous."²

What a wonderful panorama was witnessed on that Main and Pittsburgh streets corner in Greensburgh by that family! On the northeast corner had been the old predecessor of the Drum House, where the United

¹ The founders of the Singer family were a young couple who, because their marriage was opposed at home in Switzerland, eloped and came to America, where they settled in the Wyoming Valley. Some of the family were victims of the famous massacre there, and Simon and his wife, Mary Singer, removed to Carlisle, where they lost their property through depreciation of Continental money. They settled in Greensburgh, where they died, the former in 1815 and the latter three years later. Mr. Singer had fourteen children, of whom Agnes was the sixth child.

² "Sketches of America," by Henry Bradshaw Fearon, London, 1818, second edition, p. 196.





THE WILLIAMS HOME AT GREENSBURGH

Half-tone of a drawing made under the direction of Miss S. D. Williams,
Philadelphia

States officials had headquarters during the Whiskey Insurrection of 1794.¹ On the northwest corner in due season was erected northward from the corner the court house and jail fronting on Main street, with an open space on the corner, where was built a small pillar-and-roof market. Just westward of this plaza, and facing both upon the plaza and upon Pittsburgh street, with a lot extending back of the court house and prison, was the home in which Robert Williams and Agnes Singer reared to maturity a family of six children, all of whom were destined to survive their father, and the first son of whom was to take his father's place at an early age as the head of the family.²

This son, who came to them on that hot summer day, August 28th, of 1806, born in the very shadow of the court house and in the year following the greatest popular uprising against the judiciary ever witnessed in Pennsylvania, seemed born for struggle. He was given the name of his Uncle Thomas of the old Nottingham church back in Cecil County, and a new tie was thus placed upon him to bind him and his home about the headwaters of the Ohio to that of his forefathers about the blue waters at the head of the Chesapeake.

¹ Albert's "Westmoreland County" gives a Robert Williams as one of forty petitioners who urged General William Jack, head of the militia in 1794, to suppress the riot (p. 205); it also makes him a county commissioner in 1814 (p. 421), and in the Greensburgh *Farmers' Register* of August 23, 1800, he signs a call for a meeting of the *Light Dragoons*.

² The first child was a daughter, Mary, the second the son mentioned and the others in order were Robert, who died in 1848; James, Nancy J., Virginia and Elizabeth. Nancy, the only daughter who married, became the wife of Major-General William Axon Stokes, a prominent member of the bar of Greensburgh and the State, editor of the *Republican*, and an officer in the Civil War. Their daughter, Elizabeth Stokes, became the wife of Count D. Eduardo Soderini, a distinguished Italian writer, whose intimate official relations to both Pope Pius IX and Leo XIII have made his books on those two pontificates recognized as official, and has led to their translation into various modern languages. One of these works is being put in English by F. Marion Crawford, the novelist. Dr. Percy de La Roche, of Philadelphia, private chamberlain to Pope Leo XIII, also married Agnes, another daughter of Major-General Stokes.

CHAPTER II

HIS YOUTH AMIDST HIS BOOKS AND THE HISTORIC HILLS AND FORESTS OF OLD WESTMORELAND

1806

The Greensburgh hills were crowned by schools of classical learning, in at least two cases, when Thomas Williams, "junior"—for so he subscribed himself until his uncle's death—was born, so that even if he were not by nature precociously inclined to the reflective, the poetical and the learned, as he was, the grammar schools would have suggested it to him, as they were private schools of high grade and presided over always by college graduates, and often by Covenanter pastors.¹ Just which school young Williams attended as a boy, whether the one on Academy Hill or that on Bunker Hill, is not known, although it is known that in his own class there were but four students, including himself.²

He was but four years old, in 1810, when the community began to feel the need of a still higher school that would prepare its boys for college, and they secured from the Legislature an act incorporating Greensburgh Academy. On the hill north of the town they erected a plain, two-story brick structure, whose front presented a doorway, with two windows on either side, and windows in like manner above. Although the boys and girls were both taught there, provision was made for their complete separation, and pupils were worked to a degree that tends to make the demands of the modern public school not so excessive after all. Years afterwards, when Williams, as a man, was discussing the creation of public schools, he said: "When I was a

¹ Albert's "Westmoreland County," p. 503.

² Letter of May 9, 1830, to his future wife. The Williams papers. "My three class-mates at Grammar School (I had but three) have all been married
• • •"

boy, and teachers were required to use their own abilities and industry in order to raise up schools, which would indemnify them for their labors and pay them as much as they expected or desired, teachers were conscientious, and the standard of education was comparatively high. A year meant a year. It was regarded as a sort of common law that there should be no work done by boy or teacher on Saturday afternoon; but from the beginning of the year to the end of it, with the exception of the Fourth of July, and the Christmas holidays, there was no other holiday. It was a continuous term of labor; and the rate at which teachers were paid, ranged, I think, from eight to twenty dollars a year for each pupil. * * * we were called into school in summer at eight o'clock in the morning and dismissed at twelve; we resumed our labors at two and sat there almost until the sun went down in the west. I know that I felt the days were very long; but I never felt that either my intellectual, my moral, or my physical health was impaired to any very great extent by these labors. * * * I was educated at a time when a year meant twelve months, and when the weapon of instruction was the ferule, in accordance with the old doctrine of Solomon."¹

Among the earliest teachers in the Academy was Jonathan Findlay, brother of the man who afterwards became Governor William Findlay, and some were honor-men of St. Andrew's, or St. Omer's or the best American colleges. It is probable that Williams began in the Academy under some of these men when he was about twelve or thirteen years old, at least when he purchased his Delphini *Virgil*, a Philadelphia edition of 1817, he dated it August 30, 1819, his thirteenth year, and the large 700-page octavo even to-day bears out the assertion that he must have worked over every page from eight o'clock until near to sunset. His Greek and Latin Testament was bought on the following December 15th—Watts' first American edition of Leusden (Philadelphia, 1806), with Greek and the Latin Vulgate in parallel columns—and it is an interesting

¹ Pennsylvania *Legislative Record*, 1862, pp. 340-1.

fact that the part most thumbed and worn is the gospel by John.¹

Somewhat of his conception of these youthful days may be gained from a sketch written on his return from college, after he had "climbed the last weary & rugged hill which frowned between me & my native ville, the birth-place of my affections & the halcyon scene of juvenile delight. As I arrived at the eminence," he continues in the unmistakable style of a collegian, "the valley beneath opened upon me in all the fanciful luxuriance of Nature's charms, the lofty steeples glittered in the distance with the summer's sun, hill above hill arose afar till all was lost & mingled with the horizon's blue. A thousand recollections sweet & mournful crowded in upon my soul & fancy ever on the wing recalled the feats of days long gone, of seasons never to return. The village green, the picturesque school-house where once the proding pedagogue held his imperious sway, an intellectual prodigy among his flock, & thundered forth with all the pomp of power, & pride of Eastern despotism, his dire anathemas upon the quaking multitude of urchins,—the venerable oak under which we had so oft reclined our flexile limbs when wearied with the chase & talked of coming holidays with all the rapture of anticipation,—the antique meeting-house which reared its humble front above the intervening foliage, which betimes concealed & then again, when wafted by the gentle breeze, displayed its small white casements to the passing traveller, where once the village maids were wont to open forth the whole artillery of their charms, & decked in neat & choice attire, in modest coquetry, by side-long glance of their laughter-loving eyes, to dissipate the force of all their parson's long & dull & gloomy rhetoric,—all passed in strict review & all were bright in memory's page as with the hues of yesterday. There stood the hill-side orchard, on whose fruits by stealth yet sweeter for the theft, we had so often feasted,—the peach trees bending o'er the garden fence, whose blooming but forbidden fruit had often tempted our mischievous eyes, extended yet their

¹ In the Williams collection, Philadelphia.

friendly, luscious arms, inviting underneath the passing school-boy, & methought, to complete the picture, & to realize the scene, I yet could hear the sentinel steps of farmer Watson & his watchful dog, at whose sonorous bark 'we plied the nimble foot' & scamper'd off tho' only to return. Here ran the murmuring brook o'er which the patient angler bent, tempting with fraudulent bait the finny tribe; there underneath the cooling shade reclined the panting flocks, protected from the noon-day sun; the overhanging willows kissed, betimes, at some slight breath of wind the crystal stream, bowing, as it were, to the pleasurable feeling. Here and there like tufts of herbage scattered o'er the polished mirror of a lake, arose in picturesque simplicity, the poplar & the beech, indicating the calm and quiet residence of some retired swain. The tall hickory, which by its majestic appearance had forbidden the approach of the destroying axe, & the quivering aspen whose resemblance to the unsteady step of age had been its safeguard from destruction, cast their lengthening shadows o'er the fields. The low white farm-house, & the sloping lawn denoted health, comfort & happiness & gave still more variety to the exquisite features of the landscape, o'er which kind Nature had hung her choicest mantle & unfurled her green standard to the skies. The red-breast chanted his melodious strains, the swallow twittered in his rapid flight, the shrill whistle of the partridge echoed through the new-mown fields & the timid lark started anon at my approach, though only to renew his song. 'Twas such a scene as always calls to mind the sweets of home, where every day is sunshine, & where every season's Spring; 'twas such an one as is calculated to awake all the gentle feelings of our natures, portray Elysium's joys, & realize our dreams of love & happiness; it was a scene which is better felt than described, when, in the language of the Poet, which there recurred to my enraptured imagination:—

'But one vast realm of wonder spread around,
'And all the Muse's tales seem'd truly told,
'Till the sense ached with gazing to behold
'The spot our earliest dreams had dwelt upon.'

"Here it was," he continues, "that I had been taught to hold with Nature sweet communion, & to gaze upon her charms with all a lover's raptures; here had imagination led me by the hand, & peopled worlds with beings of her own creation, whilst she breathed a vivid glow upon each new-born feeling of her young disciple; & here it was that, after tearing myself from the noisy meriment of boyhood, I would pore over the pages of some captivating romance, until surrounding objects faded, & were lost amid the enchanting visions of a brighter world, 'mid scenes of love & bliss too pure & perfect ever to be realized. Thus tutored did I enter upon the theatre of a cold, selfish & unfeeling world, dreaming that all was candor & sincerity * * *."¹

His home life, too, must have been peculiarly happy during his youth and it must also have been a cultured one. Shortly after his father's death he writes from his home: "What a debt of gratitude do I owe to all those writers who have furnished our shelves with such a diversity of intellectual food—how much have they accelerated the pace of time which else would 'have limped so tediously along,'—how many weary hours have been forgotten in the enchanting fictions of the Poet or the Novelist, or in the more grave, but not less seductive narrative of the historian!"² Speaking of his first absence from home, he writes: "Oh! how I longed for the home of my nativity with its green fields arrayed in all their summer beauty & the bright sunshine which had gladdened the spirits of boyhood in many a holiday ramble!"³ It is evident, too, that the chief element of his boyhood was his love of learning; "I have always been studious," he confesses.⁴

Another characteristic of his childhood and youth has been pictured by him in verse:—

¹ From his college book of manuscripts of "Original Essays & Orations," p. 50, among the Williams papers. He was eighteen years of age when this was written and had evidently recently fallen in love with Goldsmith's "Deserted Village."

² Letter to his future wife, written at Greensburgh and dated November 16, 1829. Mr. Williams' father, Robert, was one of those strong and wise characters, found in almost every community, who commanded so fully the respect of neighbors as to be long after known as one of the peacemakers of the town.

³ Letter, as above, of May 27, 1830.

⁴ Ibid., November 16, 1829.

I.

"Imagination loves to dwell on scenes
Made holy by events of by-gone days,
And Memory binds with stronger rivet chains,
Which else had long since sunk beneath the blaze
Of actions, & events, which life displays,
When ripening manhood blooms upon our cheek,
When tost on life's tempestuous, stormy wave,
The haven of our grief & toil we seek,
And find at last a wreck beneath our troubled feet.

2.

"Oft have I roamed in childhood's sportive hour,
Beguiled to moss-grown rocks, & deserts wild;
Guided as 'twere by a Superior Power,
And breathed the mountain air, the forest's lonely child.

3.

"My little hands oft plucked the tempting flower,
Which grew a widowed plant, within my path,
And taught me then to know, Misfortune's hour
'Might empty on my head the vials of her wrath.'

4.

"Yes! even then I felt this mournful truth,
As thorns and briars rent my tender feet,
That man was born for misery, & youth
Was wont to be a scene where joys & sorrows meet.

5.

"The pine tree rustling in the hollow wind,
The timorous deer upraised at my light tread,
The piercing cry of owlet from behind,
Yes! even I loved to see the tombstones of the dead!

6.

"My early days were tinged with fancy's dreams,
The tale of Indian sorrows caught my ear;
Of Indian character, which shed such gleams
Of bravery, candor, openness & truth, I loved to hear.

7.

"A warm enthusiast, where'er my mind
Its stream of feeling, & of passion turned,
The gush of wrath could scarce an outlet find
And to avenge their wrongs my soul within me burned.

8.

"And shall, said I, America's proud sons,
Lords of the boundless soil, in pride they trod
In whom no drop of vile or base blood runs,
Who owns no sovereign law, but that of Nature's God.

9.

"Shall they the pride of human kind be driven,
Torn from the land, by them so dearly loved,
Stripped of the empire given them by heaven,
By Christians too; by men who viewed the scene unmoved?

10.

"No; thou proud minions, mercenary wolves,
Within whose hearts no spark of courage laid,
Not all thy coward blood can e'er absolve
Thy cruelties, or lay the murdered Indian's shade.

11.

"Then would I wish, my blood on fire, to go,
And meet some warrior of this stock,
With whom I'd learn to bend the nervous bow,
And in their scattered ranks withstand the battle's shock.

12.

"Nor long my wish unheard. As on an eve,
From one high hill, I stretched my longing eye
Through airy mists, which taught me to believe
The Eastern Mountains' peaks were mingled with the sky;

13.

"I wished to stand upon the extremest verge,
And view the unfathomable gulf below
When lo! from desert's mouth I saw emerge
A solitary man, as swift as mountain roe."¹

¹ Verses in his college manuscript of "Original Essays & Orations," p. 100. The Williams papers.

The interesting talk proceeds with an interview between the white child and the massive old chief, who is greatly touched at the boy's sympathy and understanding of the fate of his race, and who is reminded of his own boy who lay among the slain long since. Its purpose here, however, is served in showing his youthful generous impulse toward the ideal and the truth, which all men may recognize, but regret as not having been apparently workable at the time and not care, or possibly dare, to hold as personal convictions. The boy never outgrew that fearless view of unpopular or supposedly unworkable truth or lost the blazing indignation which followed any clear view of wrong. The picture is prophetic.

CHAPTER III

LEARNING, ORATORY AND, INCIDENTALLY, LOVE AT THE MOUNTAIN COLLEGE FOUNDED BY PRESIDENT DICKINSON AT CARLISLE CLASS OF 1825

That young Williams spent the three years from his thirteenth to his sixteenth in the old Academy on the hill as a preparation for college there can be no doubt.¹ Besides that being the sole aim of the Academy, a boy of such talents and genius for learning could not but suggest to his parents and friends the advisability of a college course—particularly in those days. Be that as it may, preparations were made to send him in September, 1822, to the nearest seat of learning, which was then the institution founded by the famous author of the *Farmer's Letters*, and patronized until his death a few years before by the equally famous physician, Dr. Benjamin Rush—Dickinson College, over the mountains at Carlisle. The institution had had a struggling existence, greatly influenced by the Federalist and anti-Federalist politics of the time, but just the year before it had been placed on a new financial basis and was again on the wave of prosperity.² Under Dr. Nisbet's administration the college course had embraced but the two years, then called Junior and Senior, but for several years past there had been another year interpolated, called the Sophomore.³

¹ His *Lucian* and his *Juvenal* have each on the inside of the cover, in his boyish script, "Thomas Williams Began this book January 2nd, 1822," with no name of place; but his *Livy* and *Euclid* have on the inside, "Thomas Williams, Dickinson College, Sept., 1822," which, with other facts, indicate his entrance at that time.

² "Dickinson College," 1879, by Charles F. Himes, Ph. D., p. 52.

³ In the Greensburgh *Farmers' Register* for February 5, 1803, the College is advertised as requiring only two years, mentioning them as Junior and Senior. Dr. Himes seems to think there had been a Freshman year also, and that the Sophomore year was introduced in 1814. In 1803 they had a preparatory or grammar school, which all unfamiliar with the classics required were compelled to attend, but it was distinctly denominated a grammar school.

In September he walked up the tree-lined paths to the arched doorway of the old stone structure, surmounted by a cupola, and now known as West College. The first session was soon over, and, as the holidays opened in December, he soon found time to write a letter to his sister on Christmas Eve: "We are all here in anxious expectation for our Christmas dinner, and expect to get a share of the 'fatted calf,' ginger cakes and sweet-meats. * * * Carlisle is situated in a large valley and the country is so level and clear that you can see for many miles around. There is a magnificent spectacle from the college cupola, from whence you can see the whole town. There is a great natural curiosity here which you have often heard me talking about—that is the cave. I have never been very far in it yet. We have no coal to burn in this country. In their parlours here they have just such fires as you burn in the kitchen, only not quite so large." Farther on he refers to the ladies, one of whom he asserts "is now courting our professor of mathematics, but he won't look at her!" "Mr. Spencer, the professor of languages," he continues, "is about to administer the sacrament tomorrow to the Episcopalians. * * * Two of the students have been suspended and have to go to the Grammar School as long as the faculty may think proper, for going to an oyster cellar. I believe the faculty has no right to punish them beyond suspension, nor do I think that they will submit to it. * * * I am growing middling fat, and the fellows are continually plaguing me about my fat cheeks. Give my love to mother and father and tell them I am sensible of their kindness and affection towards me."¹

Almost exactly a year later, December 15, 1823, he writes his father: "The studies of the Junior class are much harder than those of any other class in College, and therefore more preparation is necessary, and besides, I have determined that Westmoreland shall not be disgraced by me, its only representative, if possible. * * * You would scarcely believe how swiftly this session has passed away to me, in comparison with last year, and I

¹ Letter of December 24, 1822, to his sister Mary, among the Williams papers.

hope that the next session may pass in the same manner. A great many of the students are going to pass the recess in Harrisburgh, & I should like to spend a few days there myself, and then perhaps I may be able to give you an accurate description of our renowned Dutch Governor, John Andrew Shultz. He will be inaugurated tomorrow or the day after. I suppose you have heard of the great change in the mail route. The stage now runs from Harrisburgh to Pittsburgh in two days."

Young Williams' standing at this time was of the first order, as about two months later, February 24th (1824), the College clerk, Professor Henry Vethake, reported to his father that, on a grading basis of 1 to 5, in which "3 represents a decent mediocrity; those above it are marks of honor, those below of disgrace," he would understand precisely the standing of Thomas when they informed him "that in scholarship he ranks No. 4½ and in behavior No. 5." In June he was reported "No. 5" in both.¹

During 1824 Rev. Dr. John M. Mason resigned the principalship—as the presidency was then called—and was at once succeeded by Rev. Dr. William Neil. Williams had already become a chum of a young man from Newark, named Alexander Macbeth, who had invited him to spend part of the vacation with him when he visited his Uncle Thomas in Cecil County, Maryland.² It was the desire of both father and son that young Williams should use his vacations in seeing as much of the country as possible, so the young men made many journeys together. On one occasion at Wilmington, so family tradition records it, Macbeth proposed an introduction to one of three beautiful young ladies, asking Williams for his preference. The reply was: "Introduce me to the best conversationalist," and his friend forthwith made him acquainted with Miss Sarah D. Reynolds, in whom the young westerner was confident he had met his fate. To her not long after he dedicated the following lines, which show that the reputation which his

¹ Printed information on the back of the last report shows that the total annual expense for a student was \$169.

² Letter to his father.



... may pass in the same manner—our students are going to pass the recesses of the winter like to spend a few days there and may be able to give you an impression of a renewed Dutch Governor. The inauguration will be inaugurated tomorrow morning. You have heard of the great inauguration. The stage now runs from the night in two days."

... at this time was of the ... months later, February 24th ... Professor Henry Vethake. ... on a grading basis of 1 to ... a decent mediocrity; those ... those below of disgrace." ... the standing of Thomas ... in scholarship he ranks ... In time he was reported

... M. Mason resigned the ... was then called—and ... Mr. William Neil. William ... of a young man from ... Ma beth, who had invited ... with him when he ... County, Maryland.² It ... that young Williams ... as much of the country ... made many journeys ... Birmingham so family ... an introduction to ... asking Williams for ... Introduce me to the ... forthwith made ... Reynolds, in whom ... he had met ... the following ... which his

¹ ...
² ...

... that the total

STANFORD LIB.



WEST COLLEGE, DICKINSON COLLEGE, CARLISLE
Halftone of a photograph in possession of President Reed

Wavelength

Muse had gained among his college friends was well founded:—

“The murmuring streamlet played in circling eddies round,
 The feet of beauty strayed on lone, enchanted ground;
 A vision bright flits o’er the scene,
 More pure its light than Luna’s beam.
 The waters curb their flow, their polished face unmov’d
 Reflected back its glow, she looked upon, & loved,
 ‘Art thou of earth, or art thou come
 Of heavenly birth, & hither flown?’
 She spoke, the dimple graced the cheeks that knew no guile.
 The waters gently traced the maid’s ethereal smile,
 The accents fell in strains to please
 And died away before the breeze.
 The blue eye playful smil’d, she stretched her snow-white arm,
 Imagination’s child return’d the pleasing charm.
 She grasps in vain; the fairy form
 Now flits before her, now ’tis gone,
 Her pouting dewy lips the playful spirit chide,
 The wave their nectar sips, & heaves aloft its side.
 The gale now springs, clouds intervene,
 The glittering moon withdraws her beam.
 The lovely vision pass’d, she sought it on the wind
 She sought in vain; alas! it left no trace behind.
 ‘Then why deceive, thou airy sprite,—
 Why doest thou leave my ravished sight?’
 Warm is the heart that speaks, the thrilling fire still burns,
 The glow upon her cheeks departs & comes by turns.
 ‘My first, my last, my only love,
 Whither so fast,—why thus remove?’
 She spoke; nought but her voice reechoed on the blast,
 Till home again return’d the mirror’s side she pass’d,
 Her glance upon it fell, a form therein appear’d,
 The vision came again, & soon her sorrow cheer’d.
 But why none other like the sweet reflected face,
 Young fancy’s artless child, the skies its dwelling place?
 Unhappy still art thou, but happy others be,
 Thou seek’st a counterpart, but they seek only *thee*.”¹

On his return to Carlisle, in the autumn of 1824, and his entrance upon his senior work, he was made president

¹ Among “College Orations & Essays,” p. 129. Written in Newark, Delaware May 1, 1825. The Reynolds family lived at Stanton, near Wilmington, on an old plantation. It is a curious fact that Miss Reynolds’ father was greatly impressed by young Williams on their first visit, and said of him: “That little man will make his mark in the world.”

of the Union Philosophical Society, in which his oratorical powers had begun to shine so brightly. He had become a member of this organization when it was few in numbers, and had been a leading spirit in restoring it to vigor. At the close of the session his friend, Alexander Macbeth, of Newark, was made president; Samuel Maclay, of Lewistown, vice-president; Samuel R. Houston, of Virginia, was secretary, while the other members of the Society were S. George Fisher and William W. Gerhard, of Philadelphia; John H. Price and R. B. Carmichael, of Maryland; G. W. Teackle, of Virginia; A. S. Mendenhall, of Savannah, and George A. Lyon, of Pennsylvania. One of these, Mr. Gerhard, afterwards became a physician, who, in scientific research and discovery, became one of the famous names in the medical world.¹

In his inaugural address as president of the Society he shows his growing sense of the power and place of oratory. This was the period when Benton, Clay and Webster were becoming great oratorical names. "The world is now increasing in wisdom & knowledge," he proceeds; "the scholar is beginning to hold that rank in society which is so deservedly his due, & the destroyer of thousands is sinking inferior to the enlightener of a single mind. From the observable change in the sentiments of mankind, we have reason to suppose that in a short time the Genius of literature will reign triumphant & that the steps of all will be directed to the temple of Science, however rugged the ascent. Yes! I do not hesitate, in saying, that the time will arrive, when the fame of Demosthenes will shine with redoubled splendour, & the exploits of Alexander be forgotten. * * * We, who of all others, as a republic, would be most supposed to watch with jealousy, the present rapid advance of the Grecian states to freedom, are the most forward in asserting their rights." Farther on he indicates the Society's usefulness: "In the company of our equals, & open to each others remarks, more freedom

¹ "A History of the Medical Profession of Philadelphia from 1638 to 1897," by Burton Alva Konkle, 1897, p. 202, in MSS. at the College of Physicians, being the five main chapters of "The Standard History of the Medical Profession of Philadelphia," edited by Dr. Frederick P. Henry, Honorary Librarian of the College of Physicians, and published that year.

of address, more advantages will be gained, than in the same exercises of the college."¹

About a month later he read an essay on "Political Parties in the United States," which is significant at this point as indicating his own political tendencies. After reference to the Federalists and anti-Federalists, he continues: "It was not, however, until the period of the French Revolution that these parties became exasperated against each other. The influence of that important event, which shook the foundation of every throne in Europe, was not confined to the Ancient Continent, but extended beyond the shores of the Atlantic & carried agitation & discord into the American States. The Democratic party beheld with pleasure the dissemination of their principles, & the downfall of kings, but the Federalists, shocked with the crimes of the French rulers, the blood-thirsty cruelty of Marat & Robespierre, & the enormous abuses of republican principles, & alarmed at the anarchy & disorganization, which they had introduced, repressed everywhere appearance of popular cabal & supported the Executive with all their authority & influence. The parties which agitated the Union now raged with great violence, the debates in the House of Representatives were keen and protracted to an unusual length, the feelings of the multitude were aroused, & had not Washington declared his opinion in favor of Great Britain, concerning American ships, laden with the stores of France, an universal anarchy might have been the consequence. After his resignation, it was hoped that some change propitious to the Democratic influence might take place, & not many years afterwards this hope was realized by the election of Jefferson. Since that time Democracy has become the popular by-word, & its interest has been gradually advancing, until it has obtained the ascendancy, & almost quelled all opposition. But let the Federalists, select, though weak in numbers, rest content. Their principles have been adopted through the whole extent of government, and the equity & wisdom of their policy, has enchained the admiration of the world. If a tumultuous majority

¹ Written October 23, 1824. "College Orations & Essays," p. 1.

STANFORD LIBR.



WEST COLLEGE, DICKINSON COLLEGE, CARLISLE
Halftone of a photograph in possession of President Reed

of our citizens have embraced the opposing name, let them remain in harmless ignorance, so long as they do not put forth their impious & misguided hands to withdraw one stone from the pillar, which supports the superb & sacred edifice.”¹

Two days later he delivered an oration in the College chapel on the subject which had aroused his boyish indignation, the treatment of the Indians. “Methinks,” he thundered in closing, “I see the spirit of some slaughtered Indian enthroned in clouds & darkness, looking forward with sweet anticipation to the moment of revenge,—to that moment when, in the revolution in human affairs, the pillars of our government shall be shaken to their base, when the descendants of those who were once deaf to the agonizing cries of misery & despair shall kneel as vainly & unheard before the delegated instrument of a well-earned retribution. Had we hearts to feel, had we one spark of sensibility, the dying groan of the last unfortunate victim of their race would ring a knell in their [our?] ears never to be forgotten.”

Soon after the holidays he wrote an essay on a moral question suggested in Paley’s “Moral Philosophy.” “Right, in moral or philosophical apprehension,” he contends, “appears to me to be that which a majority of mankind considers praiseworthy; for if universal assent be a necessary incident, it follows most inevitably that there is no right or wrong, since there are few, if any things in which men do not differ, whereas they generally esteem that right which conduces to their happiness. If human law be urged in preference to the will of God, it meets with this insurmountable objection, that there are many instances of right and wrong which do not and cannot come within the jurisdiction of the law of the land, whereas in no one instance do right and the will of God differ.”² He takes pains to say that moral philosophy is not a field in which he had been often wont to roam.

In a critique on Addison’s “Cato,” a month later, on February 13th (1825), he has this to say of criticism in

¹ “College Orations & Essays,” p. 27. Written November 20, 1824.

² An essay read on January 8, 1825.

general: "It seems to be the prevailing opinion among critics of all countries, that their duty is to condemn & discover as many errors as possible; but if I have avoided this, I cannot boast that [it] is because I believe 'that there is more true taste in drawing forth one latent beauty, than in observing an hundred obvious imperfections; for the first proves that our spirit cooperates with the writer, & the second shows nothing more than that we have eyes, & that we use them to very little purpose,' but because either through a natural blindness, or merit in the subject, it was so fortified on all sides, as to be impregnable to the cavilling attacks of criticism. 'The defects of a piece should always be excused for the sake of the beauties it contains,' & to condemn that before us would inevitably call down upon the head of the unfortunate critic, the direful vengeance of the white-headed urchins of the schools, for having dared to depreciate the merits of the first stepping-stone of the young Demosthenes of our country."

On Washington's birthday he delivered an oration in the College chapel, in which he again shows his belief in the scholar as well as the soldier in politics. "Let each profession but receive its due," he concludes, "let literature but circulate through the veins of government; the shaggy crest of war will soon be smoothed & the golden age again return to soften, with its genial influence, the iron heart of man. Let each nation unite in the same person, her Solon in council, & her Leonidas in the field, who may inspire energy into her cabinet & infuse terror into her arms. Let each man bear an arm ready at every emergency, & it will be made manifest to the world, that the fire of Patriotism burns as brightly in the scholar's, as the soldier's breast; it will be again exemplified that Athenian bravery is not incompatible with Athenian literature."

About a week after this event he finds himself embroiled in a widespread "college rebellion"—one of those experiences that seem heroic to the participants at the time, but upon which they afterwards look back with unmingled good humor. He prepares for the worst—the possibility of leaving college without his degree. "The

conduct of one member of the Faculty," he explains to his father, "has for a long time excited the most serious murmurs of discontent. Accustomed for many years to dominance over a village Grammar School, he has dared to sway in a manner hitherto unparalleled, the rod of apprehension over the students of the College." In short, because the Professor could not locate some disorder in the diningroom he threatened to dismiss all from the tables. The threat was met with a hiss from two or three, whereupon an extra recitation was imposed on the entire College. Rebellion meetings were held and the offenders were offered up, but for some reason the Professor was not to be appeased in that way. Other classes took their punishment, but the Seniors, numbering twenty members, eleven of whom were professing Christians, and none of whom were concerned in the disorder, refused to submit. Thereupon two more recitations were added to their punishment and the class appealed to the Faculty, who felt legally unable to do anything. President Neil, he writes, said if they were dismissed he would not be long in following—information which "was delivered to us in confidence." The conflict must have been compromised in some way, for the storm soon passed, for less than a month later he is discussing with his father plans for his graduation. He also adds, not to be vain, but for the sake of the pleasure it will cause those at home, that "the Professor of Oratory paid the highest compliment on my last one [oration] which has ever been paid to any student;" and that he has "the reputation of being the best composer that Dickinson College has produced since its revival." He explains in a second letter that there is to be a vacation between the 6th of April and the 18th of May, and that commencement will occur on the 29th of June.

On the 28th he was chosen to deliver the valedictory of his class to the Union Philosophical Society, and on the following day, as third honor man, he delivered the "Euterpean oration," Maclay and Henderson being the salutorians and George S. Whitehill, of Columbia, vale-

dictorian.¹ The subject of Williams' oration was "The Powers of Music." "Eloquence," his fervent periods ran, "will always move, Poetry always captivate & Music always charm. High on the list of antiquity, venerable for its use, & triumphant for its universality stands the twin sister of Poetry, the language of Song. The barren & discordant waste of words was but a feeble vehicle of thought till the united powers of melody, & harmony struck deep the sympathetic chords of the human heart. Rude indeed were the strains which characterized the primitive ages, but with Literature the charms of Song marched hand in hand till the masterly touch of Orpheus polished the strings of the lyre, wafted his fame, by his melody, to the stars & inscribed his name with a pencil of light in the blank-book of immortality."

A college man's history is usually internal, and few there be who have ever portrayed it themselves; while unfortunately for those that follow them the task can be but the original's alone. These fragmentary pictures of Williams' mingled strength and immaturity, however, will serve to suggest the sources, character and limitations of those powers which, thus strong in a young man not yet nineteen years of age, were destined to be deeply and widely influential in both State and nation in the years to come. It might be a temptation to formulate these qualities and characteristics at this point, but they were not formulated to Williams himself entirely; no prophecy was unrolled in his own hands in these closing days at Carlisle; the tale was still untold. So may it not still tell itself?

How he looked upon his graduation and its aftermath appears somewhat in some verses to his chum and classmate:—

"A few short months now only intervene,
Till snapt assunder be our youthful ties,—
Few suns shall roll in majesty serene,
Or shed their splendour o'er the liquid skies,

¹ A commencement programme among the Williams papers. His diploma was signed by William Neil, Principal; Henry Vethake, Professor of Natural Philosophy and Mathematics; Alex. McClellan, Professor of Moral Philosophy, and Joseph Spencer, Professor of Greek and Latin. Williams papers.

(Alas! the pace of time, how swift it flies!)
 Till we, who three short years have trod alike
 The mazy path of science, viewed with eyes
 Of joy, our predecessors' rapid flight,
 Shall be withdrawn fore'er from alma mater's sight.

"The pangs of parting o'er, we soon shall breathe,
 Free as the mountain air and unconstrained
 By rigorous College laws: no bars to grieve
 Our spirits: now our will no longer reined:
 No curb on inclination: this attained,
 We view afar, with pleasure beaming eye
 The joys of life's wide stage: then unenchain'd,
 Like bird uncaged, we mount aloft to fly,
 And soar amid the few who deck the purer sky.

"But should we fail in our aerial flight,
 Dash'd to the ground, from pinions newly tried,
 Discouraged not, ris'n in Antæus might
 Will once more wing our arduous way, & pride
 Will tell—'in search of fame we died,'—
 Fame, which has made its votaries oft recoil
 Back to their starting place. But though denied
 By prosing cynics, who'd life's seasoning spoil,
 One wreath of glory won were worth an age of toil.

"But say, (lest treading with incautious step,
 I touch a theme unfit,) does glory's fire
 Lurk in that bosom, unaroused as yet
 But wanting only stimulant t' inspire
 To wield the sword, or sweep the Muse's lyre?
 If not then more than mortal thou, since bold
 Have all, who vast Creation's works admire,
 Been to assert that sparks of heavenly mould
 And Aetna's slumbering fires lurk in the human soul."

And now with some expressions in letters from his two most intimate friends, as aftermath, these scenes of college days may close: "Dear Colonel," wrote Macbeth from Newark, Delaware, on July 16th following, regarding a visit with a maiden of Wilmington, "you may depend on the character I gave you—the profundity of

¹ These are the second to fifth verses, inclusive, of a poem of twelve verses. The sentiment of the whole is so beautiful as to tempt to trespass on the space of this chapter. "College Orations & Essays," p. 121.

Locke & Aristotle, the eloquence of Cicero & Demosthenes, the voice of Nestor & the actions of Chesterfield were all united in you—& required but the fostering hand of culture to bring them to perfection." "This day," he writes a little later from New Castle, "I commenced the study of the law." "Dear Tom," writes Sidney G. Fisher from Carlisle about the same time, "after your departure I did not know [what] to do with myself. I went into your room, it was deserted, desolate and forlorn—46 had lost its charms to me and I have hardly entered it since. Hitherto my college life has passed pleasantly on, but hereafter it hardly can, as the only congenial society I *ever* found has gone, but I still hope we may meet again and frequently." Again, later, he speaks of "our constant intercourse, sentimental walks, etc." and "the happy hours we passed in reading poetry together," and refers to another college companion he had tried to read with in vain, as "he looks to mere rhyme & metre & cannot conceive the exquisite enjoyment of comprehending a fine idea." "College is dull, very dull," he writes in July, "and I have turned recluse—I scribble rhymes, damn Euclid, sleep, and read Byron and Scott's novels most of my time. I sometimes saunter down the street, but since you have gone, generally companionless."¹

¹ The writer of these letters is the father of the well-known Pennsylvania historian, Sydney George Fisher, who, by the way, spells his first name with a "y" instead of an "i," as may be noticed. The letters are among the Williams papers.

CHAPTER IV

THE MEETING OF TWO PROSPECTIVE JUSTICES OF
THE SUPREME COURT, CONGRESSMAN COULTER, OF
PENNSYLVANIA, AND JOHN KENNEDY, OF
MASSACHUSETTS, AND IS ADMITTED
TO BOTH PLACES

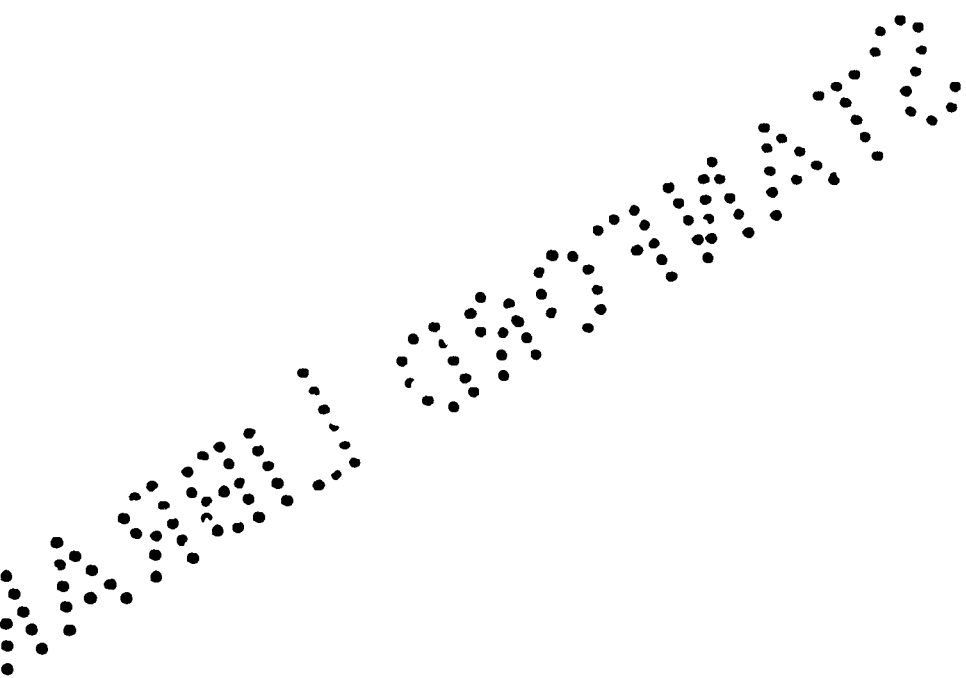
1825

It was not long after his graduation, in the early summer of 1825, that the most notable and popular man of his generation, namely the greatest scholar and orator of the age, met him, and cultured bachelor lawyer of the name of Richard Coulter by name. His interests were not only to law, but to politics, and to literature as well. His writings were marked by a delightful style, while as a speaker he was strong and oratorical—even ornate. Probably no member of Pennsylvania of his generation had a more literary flavor in style, except John Ban-
nerman. In the upheaval of the politics of that time he had been opposed to the rising popular tide of Democratic-Republican sentiment and had served the Federalists in the Assembly several times and an "Independent Republican" constituency once, although but four years before the popular tide had been too much for him—and he had since confined his attention to his profession. This was during the transition period of Monroe's administration. So that when, in those early days, young Williams returned to Greensburgh with college honors it seems impossible that either him-
self or his father would have conceived of a situation so suitable for or suggestive of the study of the law



JUSTICE RICHARD COULTER

**Halfstone of an engraving by Bather in the office of the Prothonotary of the
Supreme Court, Philadelphia**



for the young eighteen-year-old collegian than there presented itself under the direction of Hon. Richard Coulter.

Certain it is that after a slight vacation, and not far from his nineteenth birthday, in August, he began his Coke-upon-Littleton and Blackstone under Mr. Coulter's direction, and early in September his old friend, Sidney G. Fisher, writes from Carlisle: "I am rejoiced to hear that you are so much pleased with the Law." There is every evidence, also, that during the rest of the year he applied himself severely to his work, but by the close of the year the exigencies of the political situation and the rising popular Democratic movement made the conservative element in Westmoreland determine to stand together and call Mr. Coulter to run as an independent candidate for Congress against the nominee of the Democrats.¹ This made a serious derangement in the plans of young Williams, who, on January 2d (1826), writes Macbeth: "I have some distant intention of concluding my studies in Carlisle & of spending perhaps a winter in the University of Maryland."² He continued his studies, however, as long as possible during 1826, until the election of his preceptor to Congress.

Meanwhile he was cheered by interesting evidences of esteem for his talents, especially in Dickinson College. "Heister," writes his friend Fisher, from Carlisle, March 6th, "spoke your *Aborigines*, and did it very well. Your fame will live for a long time in this college. Mendenhall spoke a piece of yours at the last forensic, Heister at this, and some of them have been spoken two or three times in the prayer-hall." These compliments, however, did not allay a growing discontent and melancholy, which proved to be nothing less than the rankling darts of Cupid and the hopes and fears aroused by events far beyond the Alleghenies, near the headwaters of the Chesapeake. Never had a man more loyal friends in a love affair than did Williams in Macbeth, now at Newark and New Castle, and Fisher, at Carlisle. Williams had hesitated

¹ Coulter was elected in 1826 and had several years of distinguished service, as well as a stormy political experience, in his efforts to stay with the party which promised most for Federalist principles. Probably as sympathetic a sketch of him as can be found is that by the late George Dallas Albert, on page 319 of his Westmoreland history.

² Letter of that date among the Williams papers.

to address for correspondence the fair maiden of Wilmington, so Macbeth sung his praises and wrote him news, while Fisher endeavored to spur him to action—both with an affection like that of Jonathan for David. Some time in June he wrote her his first letter, in great trepidation, although Macbeth vowed by all the classical gods that Williams had no ground for apprehension. The news stirred Fisher to command him in friendly fierceness: "Cross that cursed Alleghany," he exclaims, "tho' all the snakes, bears, wolves & panthers that inhabit its recesses should oppose you. Be not 'the most miserable being in existence.'"¹

Not long after the fall elections, in which Mr. Coulter was sent to Congress, an invitation from his Uncle Thomas, at Rising Sun, to make him an extended visit seemed to be a most happy solution of his difficulties, for, between his affairs of the heart, the breaking up of his legal studies and the results of his sedentary habits of life, he had become somewhat morbid. The winter passed quietly at Rising Sun, with occasional visits to the neighboring towns, especially Newark and Wilmington. Fisher and he continued their correspondence, which shows that up to this time one of their bases of friendship was their mutual love of Byron, but Fisher had found a new literary god in Milton, and devotes much space to urging Williams to also transfer his allegiance, and, curiously enough, the blind bard did become, and for life, too, his constant companion—a well-worn copy was always in his pocket until his last days.² Scarcely had young Thomas become assured that his advances were not received with disfavor, when, early in March, 1827, news came of his father's ill health, and it was soon determined that he could not longer delay his return to Greensburgh. The facts bore out his conclusions, for his father lingered only a month or so longer and died during the month of May. His uncle had followed young Williams to the West early in that month, and before the father died he placed the property at both Pittsburgh

¹ Letter of June 22, 1826, among the Williams papers.

² Miss Reynolds visited much with her uncle in Wilmington, whither her family removed about this time.

and Greensburgh in the hands of Thomas, Sr., of Rising Sun, with the understanding that young Williams should be cared for and become his heir. This purpose was carried out with fidelity, with the exception that his uncle died suddenly before the papers were completed, so far as is known.¹

While at Pittsburgh, his Uncle Thomas had arranged for his resumption of the study of law under the best guidance available west of the Alleghenies. This, his uncle thought, could be best done under that able Pittsburgh lawyer, Richard Biddle, but before arrangements were fully finished it became necessary for Mr. Biddle to be away for such a length of time as to compel the adoption of another plan. His uncle, who had returned to Rising Sun by July, then suggested either Mr. Ross or Mr. Baldwin, of Pittsburgh, and writes, on July 23d: "You must not be uneasy in being disappointed with Mr. Biddle; there are others who I presume you can do equally well with; it is a business that will require some time to ascertain what will be best to be done—besides you are quite young—you have time plenty & some to spare—when in Greensburgh you can certainly be making some progress under Mr. Coulter." On August 12th he again writes, this time from Bedford Springs, where he has gone for his health: "I have been making inquiry since I came here, of several gentlemen, who would recommend a suitable lawyer for a young man to study Law with, and have been recommended to a Mr. Kennedy formerly of Union Town, who has lately removed to Pittsburgh. Mr. Kennedy has been spoken of [as] a first rate Lawyer & gentleman. I am told he stands equally as high as Mr. Biddle." Farther on he says Mr. Kennedy has agreed to take the young man on the same terms, the customary fee of \$200 for a three years' course in law, adding "from what I learn he will answer better for you to study with than any other I have any knowledge of, West of the Mountains." On September 25th a letter from Thomas, Sr., shows that young Wil-

¹ He was appointed guardian for his brothers and sisters. A letter of February 11, 1829, says that he was in Greensburgh hardly three months in the two years since his father's death.

liams had begun study under Mr. Kennedy in Pittsburgh and was greatly pleased with him.¹

At the August term of court at Greensburgh (1828), on motion of Congressman Coulter, Thomas Williams, now of age, was admitted to the bar, and on August 7th was also admitted at Pittsburgh.² John Kennedy had been practicing there since 1799; James Ross since 1788; Henry Baldwin (afterwards of the national Supreme Court) since 1801; William Wilkins since the same year; John B. Gibson since 1803; Walter Forward since 1806; Neville B. Craig since 1810; Charles Shaler since 1813; Harmar Denny since 1816; Richard Biddle since 1817; Robert Burke since 1822, and many others—for Thomas Williams was the one-hundred-and-eighty-first admitted since the organization of the county. It may be noted also that the following year there were also admitted Daniel Agnew, Walter H. Lowrie, Cornelius Darragh and W. B. McClure, among others—names, most of whom are readily recognized as among the influential ones of Pittsburgh.

Young Williams continued his studies under Mr. Kennedy after his admission. Just what his course was is not known, but that it was exhaustive may be gained from a letter written by Mr. Kennedy, who, David Paul Brown says, "was the most enthusiastic lover of the law we ever knew,"—to a young relation not long after this date, in which he states the proper preparation of an ordinary citizen. "Every member of a political society," he writes, "and more especially of a popular government, where he may be called upon to fill the highest station in it, ought to be acquainted not only with its constitution, but with its laws and municipal regulations. To a citizen of Pennsylvania I would recommend a course of

¹ John Kennedy was born June 6, 1774, just west of Carlisle, graduated at Dickinson College in 1795 and studied law under Judge James Hamilton, the elder. He was a friend and associate of John B. Gibson from boyhood to the end of his life.

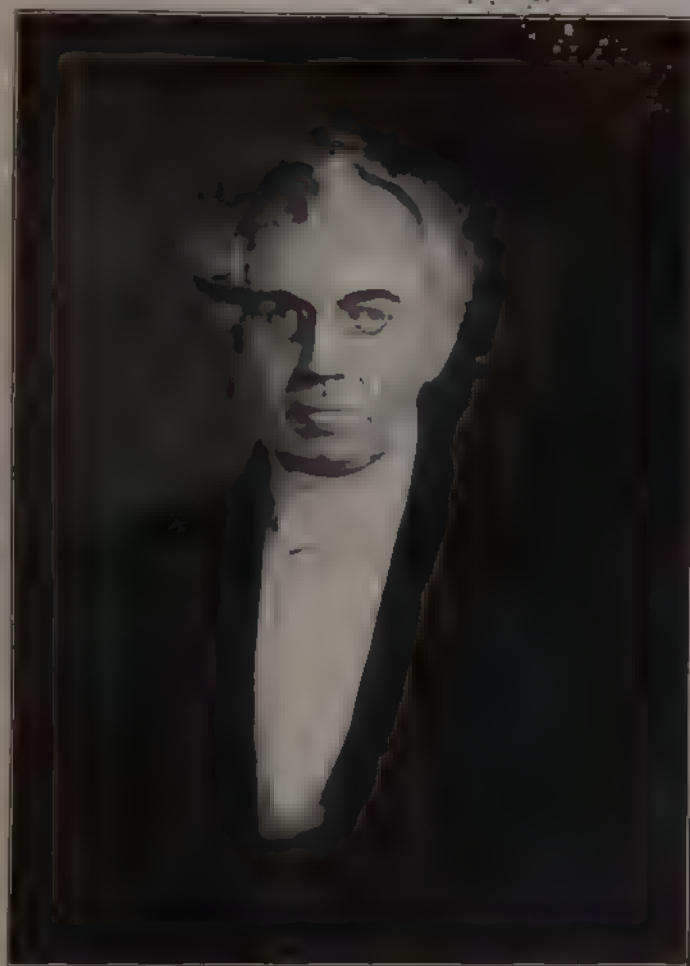
² This data is from the certificate of admission among the Williams papers. Hence the record of it in the Common Pleas Appearance Docket, which, curiously enough, although in connection with the records of this session, has it in "1831," cannot be correct; and may be, as indeed it appears to be, an interpolation of a later date and a slip of the pen at the same time. The certificate shows the court to have been composed of President Judge Charles Shaler and his associates, Judges Francis McClure and James Riddle, and the motion to have been made by Robert Burke, with whom he was later to be intimate in politics.



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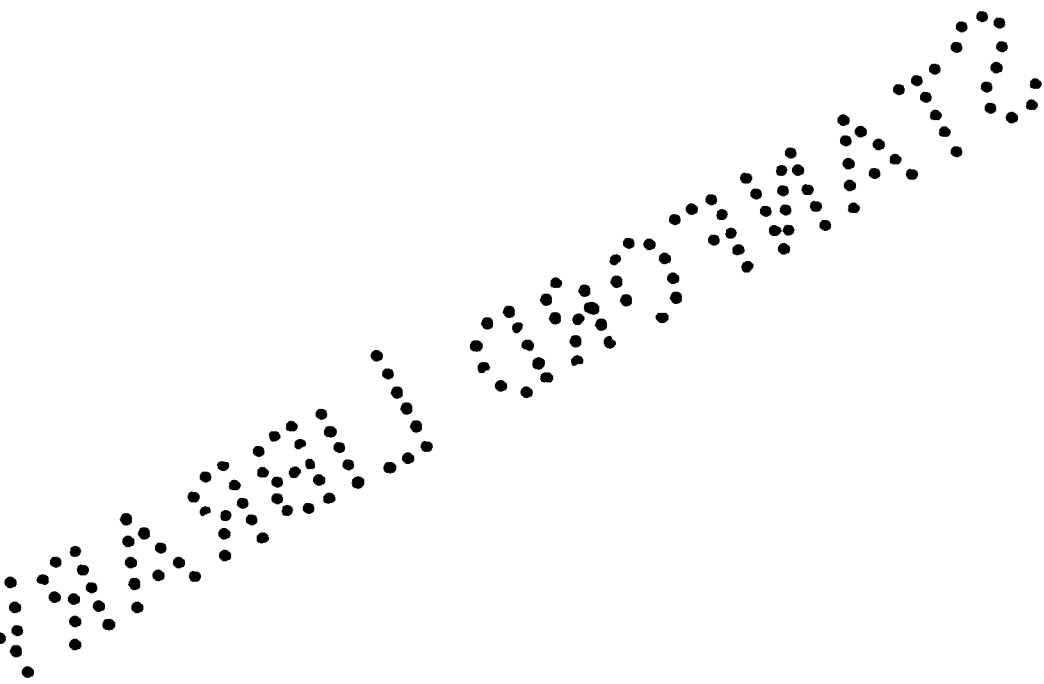
"The course under Mr.
 Adams's course was
 "The way he gained
 "David Paul
 "lover of the
 "not long after
 "separation of an
 "political society."
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 "regulations. To a
 "a course of

James Earl Ray, graduated from Long Beach University, the son of a prominent businessman.



JUSTICE JOHN KENNEDY

Halftone of a painting in the consultation room of the Supreme Court
at Philadelphia



reading as follows, to wit: Rollin's Ancient History, Gibbons' Rome, Gillie's Greece, Cæsar's Commentaries, Tacitus' Livy, Plutarch's Lives, Hume's England, Hallam's Middle Ages, Robertson's Charles 5th, Puffendorf's Law of Nature, Grotius de jure pacis ac belli, Paley's Moral Philosophy, Vattel's Law of Nations, Black. Com., Kent's Com., Coke on Lit., Reed's Blackstone, The Constitution of the United States, in connection with the works called The Federalist, and Rawle on the Constitution; many of these books ought to be read again and again, until the mind becomes familiar with them."¹ If this is the programme for a "citizen," one can imagine what a law student's programme might be, especially when it is known, as the *Pittsburgh Gazette* of November 30, 1830, states it, that the preceptor was "a steady, decided, uniform and consistent Federalist."²

What with some practice, attention to his Uncle Thomas' property in Pittsburgh, and that of his father's estate, and the study of the law, Williams was a busy young man. He felt, too, that the time had come to finally settle his affairs of the heart in Wilmington, so in the late autumn he made a visit to Philadelphia on certain business, particularly to look into stock investments, and, at the same time, went to Rising Sun and Wilmington. Were it not a sacrilege to lay bare the beautiful and tender correspondence that passed between Miss Reynolds and young Williams, it would be a pleasure to reveal the nobility of both characters which it portrays, and which led to their engagement during January of the year 1829.³ Miss Reynolds was a daughter of one of the oldest Delaware families, the founders of which, in America, were William Reynolds, 1705-1777, and his wife, Margaret Porter, 1709-1772. Their son, Alexander, married Ann Caldwell, of another well-known old family of Kent County, and the youngest of the three children of this last couple, Dr. William Reynolds—who studied

¹ Letter to George W. Hitner on December 5, 1833. Some of these titles have inaccuracies that spring from writing from memory. This letter is in the possession of Mr. H. C. Hitner, of Pottstown, Pa.

² Williams said of him, in a letter to his fiancée, on December 13, 1830: "A sounder lawyer and a worthier man was never called to a judicial trust."

³ Correspondence of Thomas Williams and Miss Reynolds, among the Williams papers. Letter of January 22, 1830.

medicine in the school at Philadelphia and married Miss Ann Donaldson—was the father of the young writer of one side of this interesting correspondence.¹ The Reynolds family, through intermarriages, were related to several of the best-known families of that State, among them being the Porters, Rodgerses and Grays. Miss Reynolds herself was also very youthful, as she was but about two years younger than the young attorney of Greensburgh, her birth having occurred on April 13, 1808, on the old plantation near Newark and Wilmington.² Her father, too, had died not far from the time of the decease of Robert Williams, so that not long thereafter the family removed to Wilmington, whence many of her letters were written.

The year 1829 passed in intense occupation at both Greensburgh, where Williams' family continued to live, and in Pittsburgh, where so many of his duties filled his days, and it is only late in the autumn that glimpses of his daily life again appear. On November 16th (1829) he writes his future wife: "I have always been studious. I have now become a sober and contemplative man, & tho' Poetry has done good service on many occasions, I am now willing to throw aside so glittering a weapon, except so far as it may be useful for purposes of rhetorical illustration."

During the winter his Uncle Thomas died and, as has been indicated, the property in his uncle's name was diverted away from him. However, his own business had made him prosperous. By May, 1830, he had returned from a visit to the East. "In the short interval of four days," he writes his fiancée, "I have contemplated the broad expanse of the Chesapeake, tripped gaily along

¹ Among the Williams papers is the following: "I do hereby certify that Mr. Wm. Reynolds has attended one course of my lectures on the Practice of Physick with diligence and assiduity.

"Philadelphia, March, 1792—

"A. Kuhn, M. D.
"Med. Prax. Pfrfr"

This was a professor's certificate for one department only, of course. The first William Reynolds' tomb may still be seen in the old St. James' Church at Stanton, to which he was greatly devoted. Ann Caldwell was a daughter of Major Andrew Caldwell.

² Manuscript notes gathered from records by the Misses Williams. These descendants have the old clock and prayerbook owned by Alexander Reynolds, son of the first William. The family are said to have come from the north of Ireland and were devout and active leaders in founding Presbyterianism in Delaware, although in later days all became Episcopalians.

the shores of the mighty Susquehanna, pursued its great tributary, the Juniata, from its mouth until it dwindles in its mountain cradle into a playful little brook, & beheld many a familiar scene reflected in the glassy bosom of the Allegheny. I have seen the wild deer startled from his mountain solitude, & 'the unhunted seek his woods & wilderness again,' & my eyes have beheld the genuine original of the magnificent picture of the conflagration of the wilderness, which glows under the masterly touches of the author of the Pioneer. I have seen the lambent flame gliding in spiral revolutions to the tops of the loftiest pines, like the fiery serpents which visited the children of Israel & I have heard the whole forest crackling under the footsteps of the devouring element. Unfortunately the first burst of its fury was over—that which was most combustible was consumed—the fire was only completing its work of desolation by gnawing into the hearts of the blackened but standing trunks of the decayed pines, yet the traces of devastation were visible for forty miles.”¹

As his period of study drew to a close, and the death of his uncle threw additional responsibilities upon him, as well as the prospect of early marriage, the question of permanent settlement presented itself. While at Pittsburgh he writes, on May 9th: “Manifold were the solicitations of my acquaintances to induce me to settle among them. The most powerful motives were urged to persuade me to such a measure,—to the objection that the amazing influx of adventurers in my profession had blocked up the avenues to notice or preferment, it was answered that the ferment would soon subside & all the supernumeraries be cast off by the force of private necessity & the reaction of public feeling. I was told that my own diffidence might cooperate with a crowd of competitors to oppress & overshadow me for a time, but that sooner or later I must inevitably rise to the level in which I was qualified to act. This was the language, * * *, of friends who knew me well, but who, like others equally impartial, have overrated my capacity &

¹ Letter to his future wife, May 2, 1830. The Williams papers. The transportation was by stage line, of course.

believe that I ought to court rather than shun the conflict of the most exalted minds. I confess, * * *, that I am not free from that pride of intellect which is inseparable from the consciousness of a life devoted to study & the acquisition of that knowledge which is not familiar to all—but I have none of that vanity which would overlook the pretensions of other aspirants, many of whom, with one-tenth the erudition I possess, have a natural turn for business which in the outset, would give them a decided advantage over my constitutional delicacy. At the bar of Pittsburgh there is no formidable array of talent, no obstacle which perseverance might not surmount—my father & uncle were familiar to all there as men of business and property—the whole real-estate (with a trifling exception in Greensburgh) of our family is situated there—my brother is already settled in that place & the rest of the family is willing to be transplanted thither whenever I shall announce my concurrence. Here then are powerful reasons, without assigning others of equal moment,—yet I hesitate, because if any discontent should ensue, I would reflect bitterly on myself for unsettling my mother when she needed quiet & removing her among strangers when she most wanted friends.¹ She is urgent on me to move—I believe my interest is the sole cause of the alacrity which she manifests. I cannot leave the town in which they reside—I must be always near them. Honor, duty & gratitude forbid my desertion. I will reflect maturely & discuss this subject more at leisure.”

On May 27th the Greensburgh court was in session and two new homicide cases came up suddenly, and he was appointed to defend one of them, but he writes: “The apparent hopelessness of the case & the shortness of the time (but one night) determined me to decline the task. It was accordingly assigned to the oldest & ablest counsel & the result was a conviction of ‘murder in the second degree’—more lenient than the criminal deserved.” He was invited to assist in the second, but

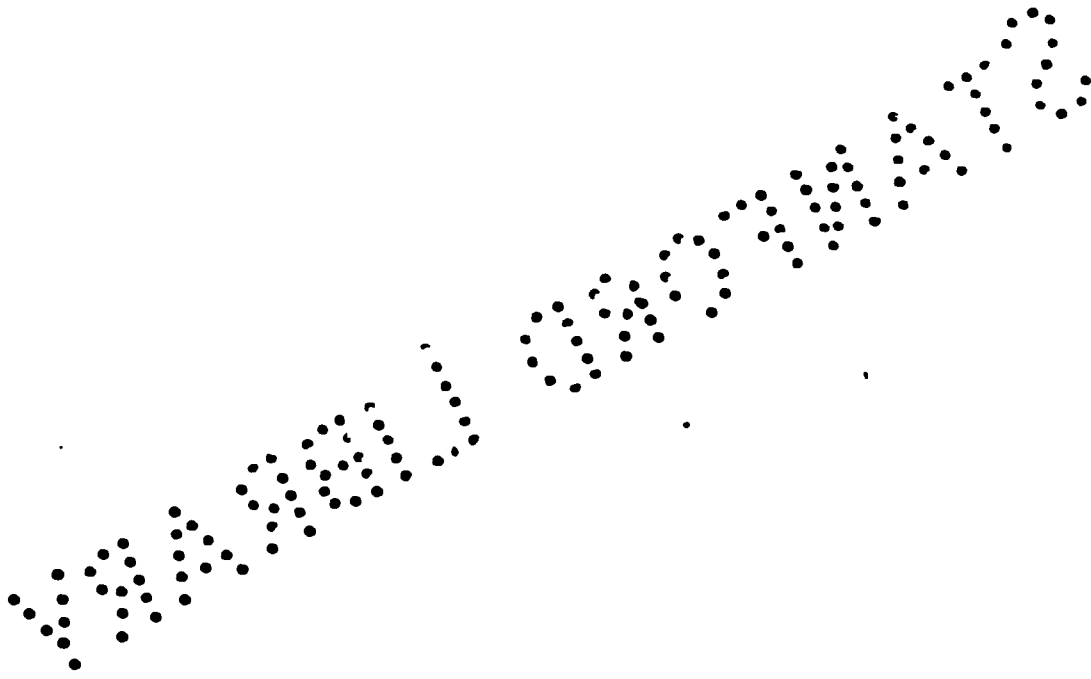
¹ Mr. Williams’ mother lived to a ripe old age and died in her eightieth year, on May 14, 1864, at Greensburgh. Her pastor, in a public letter, spoke of her long membership in the Presbyterian Church and her great strength of character.



Wm. L. G. 1850



MRS. ROBERT WILLIAMS
Half-length of a painting by Lambdin, about 1854,
in possession of the Misses Williams,
Philadelphia



that, too, was declined, because he was invited to serve by his "professional brethren who had been *employed* by *friends* of the prisoner, & not by the criminal." These two cases are significant as not only indicating his conscientiousness and extreme sense of honor, but his disinclination to criminal practice and his consequent preference for civil and constitutional law.

During these days he was an omnivorous reader in the hours of relaxation from his legal studies and business. These sedentary habits were all his life productive of occasional periods of ill health. During July he writes, after an illness: "During my confinement, when my strength permitted, I devoted much of my time to the perusal of the piquant & unique memoirs of Rousseau—a strange medley of commonplace recital, profound observation & elevated sentiment. In the affectation of a candor & unreserve which would not stop short even of the ridiculous, childish & impertinent follies of the author he has descended to the most trifling or even disgusting details, & the whole work is necessarily imbued with the licentiousness of the French manners in the age of Louis XIV. I say *necessarily*, because a writer of memoirs has no choice; he must take things as they are, & in the fidelity of the representation consists the beauty of the picture. This work, tho' of a cast perfectly original & almost inimitable, I do not mean to recommend."

During the following autumn his preceptor, Mr. Kennedy, was appointed to succeed the late Justice Frederick Smith on the Supreme bench of the State, and the bar of Pittsburgh gave him a banquet, at which young Williams was present. The young attorney now found business call him to Pittsburgh more frequently. Meantime he was finding time to take up the study of spoken French under the direction of a visiting university man from Germany, and he was for the rest of his life familiar with current French thought and French literature in general.

The most important event of the passing of the winter of 1830-31, however, was his approaching marriage and the settlement of a home. For nearly a year he had had

to be content with letters from Wilmington, and the object of his affection had had not only letters but an excellent portrait of her lover, in the form of a miniature, made on his previous visit, by Bridport, of Philadelphia.¹ In April, however, he started over the mountains to bring back a bride, and the ceremony which made it possible occurred on May 5, 1831.² With the passing of this event the preparatory period of Thomas Williams' career was at an end, and the period of personal initiative was begun. He was now nearly twenty-five years of age, with a long, arduous and scholarly preparation such as fell to the lot of few in that day in the region of the gateway to the Great West.

¹ This miniature, reproduced as frontispiece to this volume, is in the possession of the family.

² They were married at Wilmington by Rev. A. K. Russell.

CHAPTER V

PITTSBURGH AND POLITICS

A NEW UNKNOWN FORCE IN THE PRESS HE GOES TO WASHINGTON TO PROTEST TO PRESIDENT JACKSON AGAINST THE REMOVAL OF DEPOSITS FROM THE UNITED STATES BANK

1832

The Pittsburgh and her politics which presented themselves to Thomas Williams in the autumn of 1831 cannot be understood apart from a national view of both, and a glance at a map of the United States of this period seems almost a necessity to displace our preconceptions as to the location of population and the consequent shifting of commercial and political forces. It is almost startling on viewing such a map to see few settlements in upper Ohio; to see the Pottawatomies and Miami Indians occupying most of the upper half of Indiana; to see, aside from some settlements along the Wabash, some in southern Illinois and a few along the Mississippi and Missouri in the general region of St. Louis, almost nothing but Indians to the north and west anywhere; to see Arkansas Territory, between the last two western States, Missouri and Louisiana, with Mexico bordering the latter, and vast Missouri Territory stretching away beyond the other two; to see the Chickasaws and Choctaws still in northern Mississippi and the Cherokees and Creeks still in northern Alabama and Georgia—in fact, to see a great wedge of population, central in Kentucky and flanked on one side by the growing populations on the northern side of the Ohio and on the other by the Cumberland and Tennessee Valley settlements, which made Tennessee possible—all with a real base in Pittsburgh, commercially, if not politically.

Here, then, was the new and growing population of the West which had long called Pittsburgh to be an original base of manufacture and supplies, because of the great transportation difficulties over the Alleghenies—long even before Roosevelt's first western steamboat was launched there in 1811, and how much more in the score of years since that date! Here, too, was the population which had clamored for a political hearing so long and so hard until only four years before they had compelled the election of one of their number as President, and were now offering two others—until they had actually become the balance of power between the northern and southern seaboard States for the first time. It was during these autumn days of 1831, a few months after Thomas Williams' marriage, that the political forces began to line up for the coming campaign. President Jackson's Democrats were the entrenched forces, with the Calhoun element South and the Van Buren section North, and the great Tennessean's personal following in the West. The two wings of opposition, largely of Federalist ancestry, held many things in common—so much so that the anti-Masons, central in western New York and spreading chiefly southward toward Pittsburgh and eastward toward New England (dominated by one idea, but holding many others, as the Prohibitionist of the present day), held their convention in September, with an effort to place McLean, of Ohio, and Ellmaker, of Pennsylvania, in nomination, so as to compel, if possible, the other wing of opposition to unite with them. This other wing, even more Federalist in antecedents, calling themselves National Republicans, and central in Kentucky, the home of Clay, and in Pennsylvania, the home of the United States Bank, waited until December and placed Clay and Sergeant (of Pennsylvania) in nomination. The Democratic convention waited until March, 1832, and put up Jackson and Van Buren, which meant that the tariff or northern wing of the Jackson forces was in the ascendant. Now the Pittsburgh region was strongly anti-Masonic and for the tariff, but with a vigorous Clay and internal improvement element, and it was this kind of a political situation that

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the young attorney of Greensburgh, now considering permanent location in Pittsburgh, found facing him.

From the point of view of commerce and manufacture, some conception of the strategic position of this "Emporium of the West" and "Birmingham of America," as it was then commonly styled, may be gained from the fact that in the preceding decade far the greatest increase of population in the land, outside of New York—especially western New York—was in Ohio, where it had been considerably above 350,000. The gains in the entire country, which exceeded 200,000 to a State, were, besides New York, as above stated, Ohio, Tennessee and Pennsylvania, while those with gains above 100,000, excepting three southern States, were Indiana, Kentucky and Illinois. Even as early as five years before, 1826, the product of Pittsburgh manufactures were valued at considerably above two and a half millions, and her exports nearer to three millions (\$2,781,276). As a steamboat builder, Pittsburgh could hardly be said to have had a rival, unless Cincinnati might have been given that honor, for since Roosevelt's New Orleans was launched, in 1811, forty-eight boats had been built at the head of the Ohio by 1826, at a value of nearly a half-million dollars.¹ This was with a population, according to the Barclay census of that year, of 10,515 in the city proper. By 1830 this population had increased to 12,540, with about five-sixths as many more in the adjoining towns, so that there was a total population of above 22,000 about old Fort Pitt in the year 1831, when Attorney Williams came in on the old Greensburgh turnpike, as he often did, and continued down Penn street to the court house, nearly half-way from Grant's Hill, down towards the Point. For, be it known, the Pittsburgh of that date lay chiefly in a triangular shelving plain, whose western fort-capped Point was but about a half-dozen ordinary blocks from Grant's Hill, near the present great thoroughfare of Smithfield street.

¹ These figures are from the second Pittsburgh "Directory," that issued by S. Jones in 1826, a volume, by the way, which was the first book presented to Carnegie Library. The next directory was Harris', of 1837, according to the statement of its author. Jones gives 2,997 as the number of employees in the iron mills and other branches of manufacture.

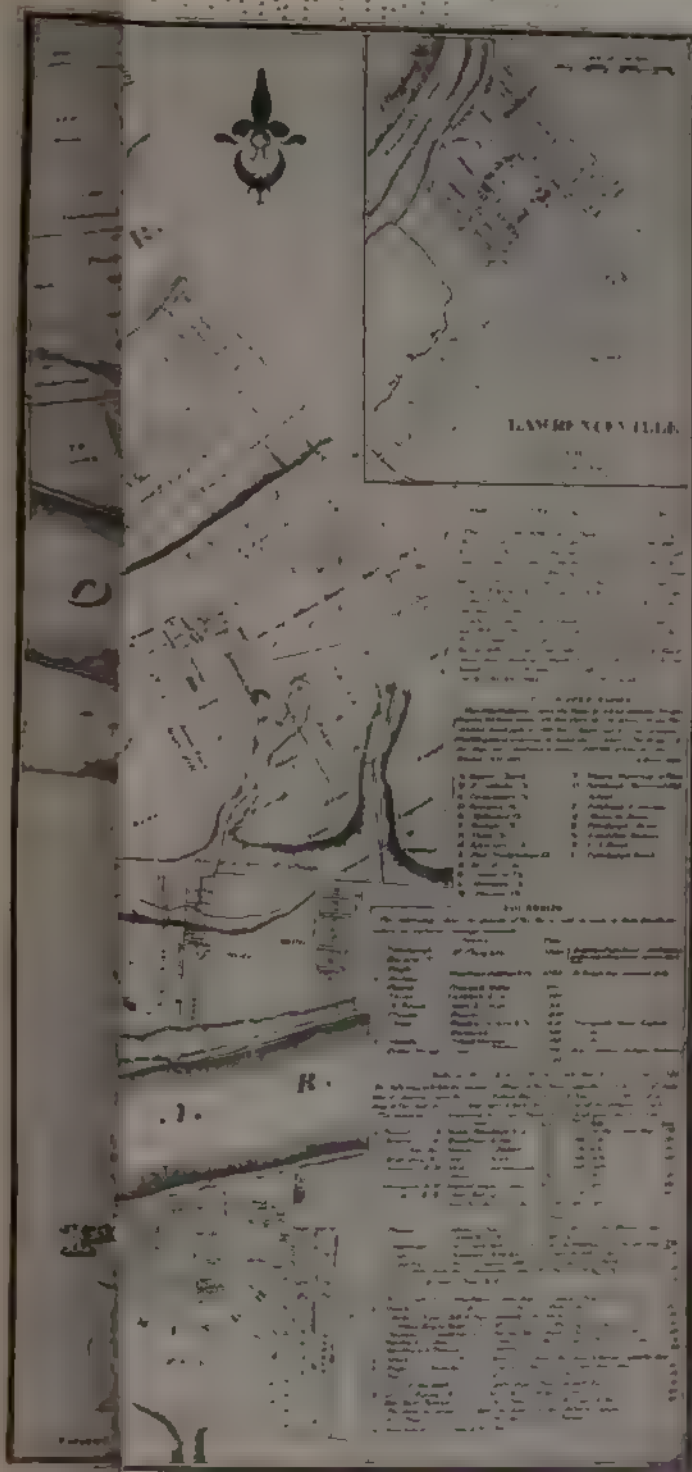
The lofty headlands, which frowned down through the pall from chimneys along the the banks, dimly beheld a curious tracery of streets.¹ Penn and Liberty streets bound a long strip of blocks on and parallel to the Allegheny banks down to the Fort. The rest of the plain was laid out at right angles to the Monongahela, the streets consequently all at some sort of an acute angle to Liberty street, along which were many triangular lots. These thoroughfares on this side, beginning at the Fort, were, significantly, West, Short, Ferry, Market, Wood, Smithfield and Grant, while from the Monongahela wharf they ran, Water, Front, Second, Third, Fourth, Fifth, etc. It was nearly in the centre of the large section between Fourth and Fifth streets, and from Wood to the angle at Liberty street, that the public square was laid out, surrounded by lots and intersected by Market street and Diamond alley. Its corners being toward the cardinal points of the compass, however, it was known as the "Diamond." In this diamond, on the Point and Hillward sides of Market street, respectively, were the court house and market, from which Mr. Williams soon found himself habitually passing the two lots on Market street and turning Point-ward on the right side of Fourth, reaching his office on the second of these two lots, which was one of those patented by his grandfather in December, 1785.²

"The county court-house," wrote one who remembered it as a boy, "stood on the west side of Market street in the Diamond; it was built of brick about the year 1789. The main building, in which the courts were held, was two stories in height, with a hipped roof, and surmounted by a peaked steeple, used as a belfry; for when the courts convened, the crier, old Mr. Kinzer, whom everyone knew, rang the bell, as he also did when fires broke out.

¹ The originals of the Barbeau and Keyon map of 1830, here reproduced, are so dim that it was deemed best to use a facsimile copy made with conscientious care under the direction of an officer of The Fidelity Title and Trust Company of Pittsburgh.

² As the streets all take nearly half-cardinal directions, points of the compass tend to drop out of use. This lot was No. 343 of Wood's plat, and, as has been said, covered the northern side of Fourth avenue, between Market street and Jail alley, now Decatur street—a position almost as near the court house and jail as was his home in Greensburgh. The market building now occupies the court house site.

STANDARD



Pittsburgh

This main building covered an area of about seventy feet square. The court room, occupying the ground floor, was paved with brick about double the size of ordinary building brick. Supporting the floor above were six or eight fluted wooden columns, about two feet in diameter, having Corinthian capitals and resting upon square panelled pedestals. These I remember were severely gashed, having been found convenient by loafers for testing the edges of their pen-knives. The Judges' bench against the west wall faced the one entrance, from Market Street. On either side of the door-way were fluted pillars carrying a slightly ornamented pediment. There were wings to the right and left of the main edifice, one story high, each having two rooms with entrances from the street. * * * On the opposite side of the street from the courthouse was a semi-circular market-house, which in its sweep enclosed most of the Diamond on that side."¹

A most rare and quaint conception of the town, in the half-cynical, western humor of the time, has been handed down that must not be omitted: "The streets, running at one angle here, and another there; narrow, roughly paved, filthy, beyond compare, and filled with hogs, dogs, drays and noisy children," says a witty but unknown writer in the second directory of Pittsburgh, that by Jones, in 1826—five years before Williams' settlement, "afford a spectacle of anything but the 'sublime and beautiful.' The few—No, not the few, the many large and valuable edifices, which are to be seen, are so begrimed and marked by smoke and soot, that they afford a most gloomy sight to the visiter from one of the fair cities of the east, the north, or even that miniature Philadelphia, in the west, Cincinnati. As for lofty, glittering spires and cupolas, no such unnecessary objects, to direct the way-faring man, and embellish the city withal, are to be seen among us. The only ambitious structure that aspires to any height, within the bounds of the corporation, is the steeple of the county-court house, in which is suspended a most musical bell, that threatens to bring down the daring fabric, now 'tottering to its fall'

¹ "Life and Reminiscences From Birth to Manhood of Wm. G. Johnston," Pittsburgh, 1901, p. 67.

with every sound of its cracked and crazy voice. This solitary spire, standing like a scathed pine in the centre of a large 'clearing,' around which the smoke, from heaps of burning brush, continually hovers, is no more palpable to the optics of the coming traveller, at a reasonable distance, than are the houses which enclose the little space, hight the 'Public Square,' alias the 'Diamond,' where it braves the clouds in the midst. No elegant, commodious edifices are beheld, either in the 'East' or 'West ward' of the city. Not a single public square, appropriated to useful or ornamental purposes, is visible within the same extent of corporate limits, save and except the contracted, dirty spot of ground just mentioned; and that is so exclusively occupied by the court-house, the market-house, road wagons, carts and drays, that but small space is left for more attractive objects. On election occasions, indeed, from twilight until midnight, the vacant part of it is held, in undisturbed possession, by a crowd of clamorous boys, and overgrown children, who alarm the vicinage, by shoutings and the display of burning balls, and blazing tar barrels, to the great terror of all well-disposed persons, and without having before their eyes the fear of the city authorities, who, for the time being are divested of all manner of authority.

“ ‘The man who has stood on the Acropolis,
And looked down o’er Attica, or he
Who has sailed where picturesque Constantinople is,
Or seen Timbuctoo, or has taken tea
In small-eyed China’s crockery-ware metropolis,
Or sat amidst the bricks of Nineveh,
May not think much of *Pittsburgh’s* first appearance
But ask him what he thinks of it a year hence?’ ”

“Yet strange as it may appear, to those who have, from their birth onward, inhaled the pure air of transmontane cities,” he continues, “there are to be found within our city, people, and not a few, who are perfectly satisfied to make it their abiding place. Some there are, too, who once, or more frequently departed from it, in great haste, and shook off the dust of their feet against it, sturdily resolved never to come within breathing dis-



THE FIRST PORTLAND COURTHOUSE, 1852
 Home of a drawing in "Life and Reminiscences of
 George W. Johnson" by courtesy of Mr. Johnson



THE FIRST PITTSBURGH COURT HOUSE, IN THE DIAMOND
Half-tone of a drawing in "Life and Reminiscences of Wm. G. Johnston,"
by courtesy of Mr Johnston

Handwritten text in a cursive script, likely a signature or a name, written in black ink on a white background.

tance of its abominations, who have returned to it, and are, even now, numbered among its taxable burghers. By what strange infatuation, they could have been attracted towards it—whether by an attachment to their *natalis solum*—the hope of finding bank notes and substantial specie among the heaps of dust and clouds of smoke, or by some other equally powerful motive, they alone can pronounce. It is, most indubitably, the place of places, to gather together the ‘commodity,’ which is at once a necessary evil, the source of all mundane felicity, and the god of all mortal idolatry. * * * With all these crying and trying perils, inconveniences and wants, which daily and nightly beset them, the great majority of our citizens are doggedly contented with their place of abode. They stoutly maintain, that, when the projected water-works, the national armory, and the grand canals shall be completed; when the obstructions in the Ohio, above Wheeling are removed, and when the contemplated indications of immense improvement in and about the city, are realized, we shall be the most manufacturing, commercial and altogether flourishing community west of the mountains, not excepting *Wheeling*, Cincinnati, or Louisville.” He recalls the happy village days of old Fort Pitt, when life was more simple and classes and wealth had not brought complications. He mentions the Western University at Third street and Cherry alley, an embryo law society, an “Apprentices’” library, book-sellers, on whose counters are novels of the “Great Unknown” and Cooper, and a solitary theatre in Third street. Another writer of the “Directory” refers to Judge William Wilkins, of the local United States Court, who had “long been a prominent man”; Henry Baldwin, who was “still on the stage, an eminent lawyer”; and among the younger men of standing at the bar he notes Walter Forward and Richard Biddle as particularly talented. About five years later young Williams established himself in his Fourth street office and soon became a force to be reckoned with, not only in legal circles, but in political and other public movements as well.

One other subject that commanded the attention of the whole country, but particularly the region in which

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It is not known, neither is it very material, exactly when Mr. Williams brought his family to Pittsburgh, as he had business there so frequently that he was identified with its life even before that period. It is probable, however, that it was late in 1831 or early in the following year.¹ Not much note of his practice need be taken in these early years, even if there were records to indicate its character, although that must have been of a high class for so young a lawyer, as his public life was soon so much more important in its general interest.

The events which brought him into public life were those connected with the great upheaval against President Jackson, on account of his attitude toward the United States Bank in the summer of 1832. The campaign of the following autumn was fast and furious in Pittsburgh, and when the election was over the anti-Masonic ticket in Allegheny County was overwhelmingly successful—3,506 to 3,094 in favor of Ritner for Governor, and 3,922 to 2,484 in favor of Harmar Denny for Congress. When it came to the national election, however, the anti-Mason candidate, while reducing Jackson's figures by 1,864 votes from those of the year 1828, was compelled to yield to a Democratic sentiment represented by 3,321 to 2,985 in Allegheny County. This, together with the increasing anti-Jackson sentiment over the country, caused the anti-Masons to still more desire to absorb the rest of the opposition, and gave the younger men of that opposition renewed zeal, in the belief that the time had come for a new party under the banner of the old Whig name of the Revolution.

The *Pittsburgh Gazette* at this time, with Neville B. Craig as editor, was the organ of the anti-Masonic or dominant party in Pittsburgh, while the opposition had found voice in the *Advocate*. The latter had not been of sufficient force to draw the fire of Mr. Craig, but in 1833—at just what time is not known, but it was early in the year—the *Advocate* secured a new junior or associate

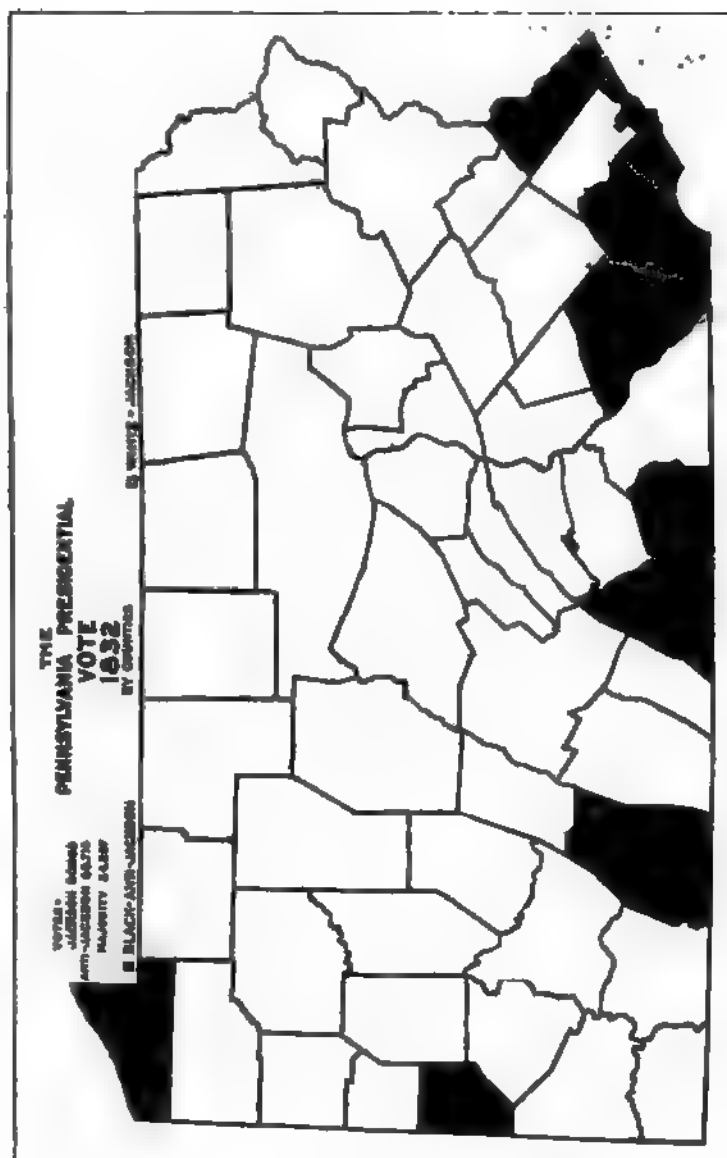
¹ A letter of October 27, 1831, shows his business largely in Pittsburgh, but his home still in Greensburgh; but another letter in the same month shows him looking for a home in "Allegheny Town."

editor, who was not generally known, but who was able to pierce the *Gazette's* armor at several points.¹ It was the first paper that Mr. Craig had felt constrained to reply to much, but during 1833 he gave it a large share of his space. On July 31st he writes: "We received yesterday's *Advocate* at too late an hour to reply to the remarks of its editor, in our paper of that day, as fully as we could wish; * * * The knowledge which he has obtained of our character, in his eleven months' residence here, compels him to say: 'We take it for granted that this editor (of the *Pittsburgh Gazette*) never asserts what he cannot substantiate.' We are grateful for even this *reluctant* act of justice." This would seem to indicate that the junior editor of the *Advocate* settled permanently about June, 1832. Mr. Craig was not quite sure who was doing this writing, and it is probable that the editorials were only occasionally the work of Williams, who was secretly trying his wings in that direction.² On August 10th Mr. Craig says the senior editor of the *Advocate* remarks that: "the junior editor has been amusing himself with the editor of the *Gazette*," and, in replying, accuses the senior editor of adopting "the production of abler pens, as his own," and intimating that the senior editor's son does also. It was plain, however, that whoever was author of the editorials, they were making themselves felt more than any other editorial pen in Pittsburgh. These personalities were merely incidents of the articles, which were, at these dates, concerning attacks on Jefferson as a calumniator of Washington, by Mr. Craig.

On October 1st the *Pennsylvania Advocate and Pittsburgh Advertiser* made its first appearance as a daily. Mr. Craig is confident he knows the editor now, and admits that "the address of the *new* editor, to his readers, explanatory of the course which he means to pursue, is entirely

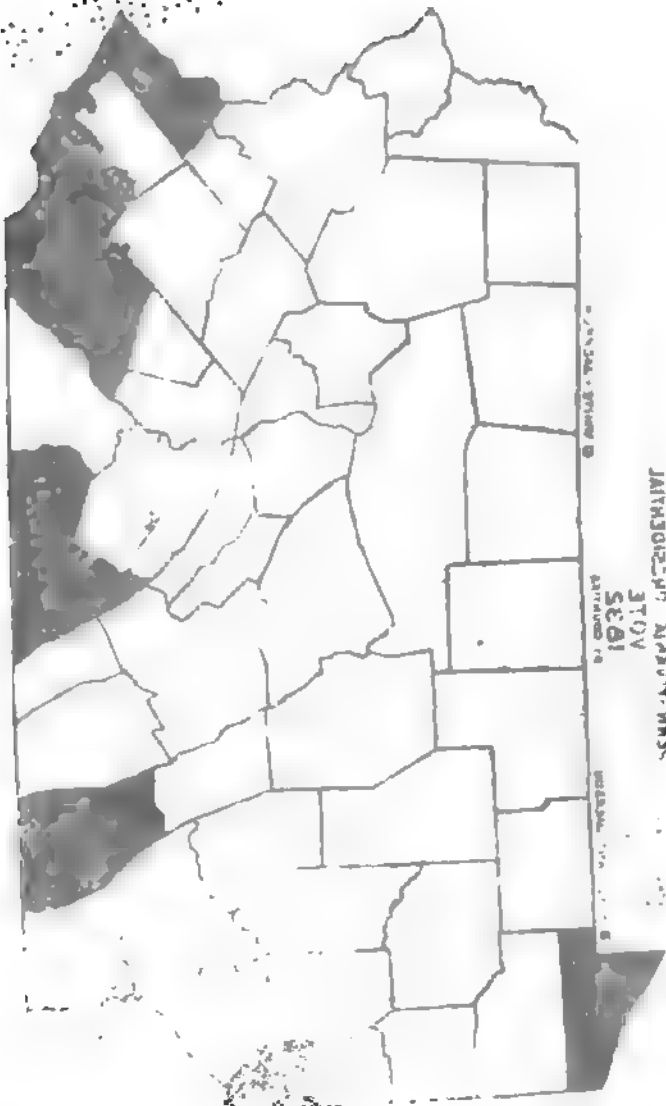
¹ The *Gazette* for the last half of 1833 is now preserved at the Carnegie Library, Pittsburgh. The *Advocate*, previous to 1837, is not known to be in existence.

² In the issue of the *Gazette* of August 9th there is a plea for Grant's Hill, at Fourth and Grant streets, as the best site for a new court house, which the commissioners were then considering. After noting that it would be a retired and refreshing spot for it, he continues: "In the course of a few years, too, the high grounds of our neighboring hills will be more justly appreciated, and we may anticipate the day when noble edifices will range along the hills, and make the place now contemplated as the seat of the public buildings, almost the center of our population."



Prepared by the author from official returns

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satisfactory, and is well written." The controversies are now carried on with fewer personalities and on a higher plane, judging from its reflection in the *Gazette*. "It is true," says Mr. Craig, "as the *Advocate* asserts, that the cabinet is now filled by *old federalists*, but it is also true that these men have cast their skins, and have become *old democrats* after the *new fashion*." Evidently the *Advocate* was trying to account for the high-handed powers exercised by Jackson by showing that he believed in a strong government, as did the Federalists. It is unfortunate that no copy of the *Advocate* of this date can be found.

At this point a significant paragraph from the *Gazette* may, for an instant, divert the attention: "To show the commanding position which our city occupies," writes Mr. Craig, "it is only necessary to mention that, when Philadelphia wishes to form a connection with the great West her canal terminates at Pittsburgh—when a communication, by water, between the capital of this great republic and its western members, is sought, its only outlet to the west is fixed on the borders of our city—when New York wishes for a shorter and more secure rout to the great valley of the Mississippi, than that by the stormy lakes of the north, she intersects the Allegheny, at Olean, and pursuing its sinuous course, arrives at our landing place—and finally, when Baltimore plans a great railroad, to the Ohio, she discovers that her most natural, shortest, and cheapest rout is along the Youghiogheny and our own Monongahela, to the confines of our city." And this paragraph has in it the seeds of one of the greatest struggles, not only in the life of the editor of the *Advocate*, but in Pennsylvania and the nation as well—a struggle that extends in all its vigor even to our own day, and still has one of its seats of operation within a block of the young editor's law office, where he probably did his work.

A far different struggle was attracting attention now, however. The continued attacks of President Jackson on the United States Bank, at Philadelphia, and the final removal of government deposits stirred the whole country. Pittsburgh called a meeting for protest on Jan-

uary 20th, following (1834). This provided for gathering signatures to a protest, which was in due time forwarded and presented by Congressman Denny. This was not deemed vigorous enough, and on February 1st a call, signed by four columns of names, was issued, the name of Thomas Williams being among them. This is the first public appearance of his name in the *Gazette*.¹ On the evening of the 8th the meeting was held at George Beale's, and the following delegates to Washington were appointed: Isaac Lightner, Alba Fiske, Wm. Licky, John Sampson, Thomas Fairman, Saml. Fahnestock, Thomas Williams and J. H. Shoenberger. Mr. Benjamin Bakewell was unable to go.

Within two weeks they were in Washington. "The first object which strikes the eye on entering Washington," wrote Mr. Williams to his wife, on February 23d, "is the Capitol, occupying a commanding position at one extremity of the City, & constituting altogether the finest piece of Architecture I have ever beheld. Its material is a fine white fire-stone so nearly resembling marble, that at the distances of twenty paces, its real quality can scarcely be discovered. The symmetry & proportions of the whole building are altogether faultless—the *tout ensemble* seems exactly to fill the eye of the beholder; he would not wish to add or subtract from the beautiful whole. It is composed of a center and two wings, the former embracing the Rotunda & the latter occupied by the two houses of Congress—the whole fronting & overlooking Pennsylvania Avenue, a noble street about 180 feet wide & traversing the whole city. At the other extremity of the Avenue, facing the Capitol & in a position not much inferior stands the famous White House, the abode of Royalty, or rather I might say the grand Kitchen of the Nation, flanked by the Departments of State & Treasury on the one hand, & War and Navy on the other. To this abode then we repaired soon after our arrival, & were, after a few minutes detention in the ante-room ushered into

¹ The *Allegheny Democrat* had had a notice of the organization of the "Young Men's National Republican Association" on the 2d of October, 1833, at which Mr. Williams, Wm. M. Shinn and Samuel Fahnestock were the committee on resolutions. *Gazette* of September 6, 1834.





THE WHITE HOUSE IN 1833

Halftone of a view in *The People's Magazine* of June 15, 1833, in the
Congressional Library

the presence of the Chief Magistrate by Judge Wilkins.¹ We were courteously received, but were scarcely seated when the General opened his batteries against the arch-enemy, the Bank of the United States, & poured forth such a volley of abuse as would have done honor to the columns of the Globe itself. Little as I had been in the habit of contemplating him to be, I confess I was amazed, shocked at an exhibition of coarseness & vulgarity which I had not been prepared to expect. There was an utter want of that dignity which overawes impertinence & enforces respect. He even so far forgot his high official station as to contradict flatly our representative Mr. Denny, & to assert that he knew more about the condition of the State Banks than all of us together. I will not relate more of his conversation now. It shall be reserved for a more opportune occasion—for a fire-side entertainment. The appearance of the General is much more prepossessing than his conversation—very much resembling the portraits which you meet with everywhere, but not strikingly grave or venerable.

“How widely different in every respect,” he continues, “is the subject of the foregoing observations from the truly great men who abound in Washington. First of all, it becomes me to name the venerable Chief Justice Marshall than whom no man in the Country is so generally beloved. Judge Baldwin² introduced me to him, & according to Judge B. I had the good fortune to make a favorable impression. The Chief Justice was pleased to pay me a compliment of which, I assure you, I am not a little vain. The late Vice-President Jno. C. Calhoun

¹ Judge William Wilkins, a strong supporter of President Jackson, had become a Senator from Pennsylvania. What is said of him here is purely on a political basis and due to the great contest which the anti-Jackson men of the Senate were making against the administration. Senator Wilkins was a native of Allegheny County, born in 1779. He attended Dickinson College for a time and read law at Carlisle also. He was admitted to the Pittsburgh bar in 1801. He was elected to the Legislature in 1820, but resigned and became President Judge of the old Fifth District. In 1824 he was made United States district Judge for western Pennsylvania and in 1828 was elected to Congress, but declined to serve. Three years later he became Senator and was chairman of the committee which reported the bill authorizing President Jackson to use force against Nullification in the South. In 1833 Pennsylvania cast her electoral vote for him for the Vice-Presidency. After this visit, described by Mr. Williams, Wilkins was made Ambassador to Russia.

² Henry Baldwin, born in New Haven, Connecticut, in 1780, graduated from Yale College, studied law and settled in Pittsburgh. In 1817 he was elected to Congress as a Federalist several times. He was made a Justice of the Supreme Court of the United States in 1830.

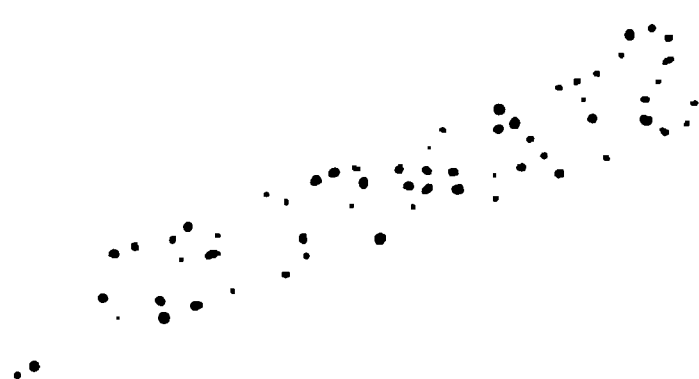
is one of the most agreeable men in Washington. 'What a pity,' everyone says, 'he is a Nullifier.' There is a great array of talent now in the Senate, & scarcely a day passes without a skirmish. But the Administration is greatly overmatched in every Debate. Judge Wilkins was speaking when we arrived & for two or three days afterwards. * * * Clay & Webster annihilated the Pennsylvania Senator on Friday a week. Mrs. ——— who was present on that occasion was delighted with the manner in which Clay disposed of him. Mr. Sprague of Maine is my favorite of all the Speakers I have heard.¹ He and Mr. Chambers of Md. were tilting yesterday & the day before with Shipley & Forsyth, & I assure you they dealt some hard blows. Chambers cuts & slashes terribly, but he wants the proper dignity. He went so far as to compare Van Buren to a Red Fox, by reciting one of Esops' Fables, & truly Van Buren does very much resemble that animal. * * * Mr. Preston of S. Carolina is by all accounts the most eloquent man in either House. If I could hear him & Clay & Calhoun, I would leave Washington at once. The Lower House is a perfect mob. You are not admitted on the floor there & you can hear nothing from the Galleries. In the Senate, it is quite different. I have the free *entree* there & am always present when it is in session."²

While he was in Washington the people of Pittsburgh, on February 27th, were perfecting the organization of a Historical Society, and made Mr. Williams a member of its governing council. The officers were: president, Benj. Bakewell; vice-president, W. W. Fetterman; treasurer, John Harper; secretary, Wilson McCandless; librarian, Charles H. Kay, and council, Richard Biddle, Dr. Wm. Addison, M. B. Miltenberger, George Darsie, George W. Jackson, Robert S. Simpson

¹ Peleg Sprague was a native of Massachusetts, born in 1793, a graduate of Harvard College and Litchfield Law School. He was admitted to the bar at Augusta, Maine, in 1815. He was in the State Legislature and in Congress as a Whig, and from 1829 to 1835 was a Senator from that State. He was afterward an eminent Boston lawyer. He survived all the members of this famous Senate—and had a great reputation as a debater.

² Letters among the Williams papers.







WILLIAM WILKINS

Halftone of a painting by Bowman, about 1830, in possession of Miss
Henrietta W. Sanders, Philadelphia

Handwritten text in a cursive script, likely a signature or a name, written in black ink on a white background.

and Thomas Williams.¹ Mr. Williams was but twenty-eight years of age at this time.

He left Washington on March 3d and the next day was at Philadelphia. "We walked to the State House yard," he writes on the 4th to his wife, "to attend a Jackson meeting, which was sufficiently small to enable us to hear speeches from George M. Dallas & Richard Rush, & many a fierce gesture at the Marble Palace in Chestnut St."² By the 6th they were in Pittsburgh, and on that afternoon a great meeting at the court house heard their long and ably written report, which occupied nearly three columns. The President argued his case hotly. "'I never will return the deposits to the Bank of the United States—to a bank having the whole of her capital—thirty-five millions—at the disposal of one man, for corrupt purposes—I will protect the morals of the people—see the large amount of the funds of the government applied to corrupt the press—it was my duty to take the deposits from such a corrupt institution—I can't bow down and worship the golden calf—the Spanish inquisition could not compel me to worship the monster. See, as Mr. F. [Frelinghuysen] says—see Mr. Biddle sitting with his arms folded, his directors around him, calm as a summer's morning—his salary is going on—he cares nothing for the distress of the people—there he sits, brooding over his ten millions of specie, when he acknowledged, on oath, before Congress, that six millions were enough. The experiment shall be tried with the State Banks—I will protect the State Banks—they would have been destroyed by the vile monster, before this time, if I had not sustained them.—Go home, gentlemen, and tell your branch to act harmoniously with the State banks and relieve the people. I will not molest the Bank of the United States or its branches, but I will support the State banks.'"

The President was immovable. "We cannot conclude our report," it says in closing, "without adding the expression of our sincere conviction that to remedy the evils

¹ The *Pittsburgh Gazette* of March 4, 1834, at Carnegie Institute.

² The United States Bank was the present Custom House, and, as there was no Drexel Building intervening, it was in full view and just across the street from State House square.

which now oppress the whole country, much depends on the proper action of the people of our own state—much is in their power. They may not only confer great advantages on themselves, but permanent and greater advantages to the whole union. Pennsylvania has certain great interests, identical, we believe, with the whole union—these are the protection of home industry, the proper application of the public money for internal improvements, and the preservation of a sound currency—let us, then, by all proper means, urge our fellow citizens to cast from them all party demagogues, no matter by what name they may be called, and all aspirants for office, who have only in view their own fortunes and political advancement, and elect to office such men as understand the true interests of the people, and will not, for selfish reasons, sacrifice those interests.”¹ This was signed by the delegates, Mr. Williams’ name being next to the last, and, said he in a letter to his wife on the 19th of February: “I have been obliged to take a memorandum of his [the President’s] conversation,” which indicates that the report was prepared by him largely, if not entirely.

The meeting passed vigorous resolutions, and appointed Messrs. Craig, Fetterman, Brown, Darragh, Patterson and Darlington to be delegates to a State convention in April, at Harrisburg, to take measures “to restore the prosperity of the country.” On the 15th a meeting was held at the hall of the Young Men’s Society to organize a “Political Association” from all parties. Messrs. Bakewell, Burke and Fairman were made a committee to outline the aims, which were: “1st, The Constitution and the Laws. 2nd, A Sound Currency. 3rd, A Protective Tariff. 4th, A Great System of Internal Improvement. 5th, A System of General Education.” It was to support men only who would stand for these principles, let them be “Jackson men, anti-Masons, or National Republicans.” A committee was appointed to draft a constitution, and it consisted of Robert Burke, Thomas Williams, Isaac Lightner, John Irwin, Thomas Fairman and Thomas Liggett; the last-mentioned, being

¹ *The Gazette* of March 6th.



1. The first part of the document discusses the importance of maintaining accurate records of all transactions and activities. It emphasizes that proper record-keeping is essential for transparency and accountability, particularly in financial matters.

2. The second part outlines the specific steps and procedures for conducting a thorough audit. This includes identifying the scope of the audit, gathering relevant data, and performing detailed reviews of financial statements and operational processes.

3. The third part addresses the challenges and common pitfalls associated with auditing. It provides practical advice on how to overcome these challenges, such as ensuring clear communication with stakeholders and maintaining objectivity throughout the process.

4. The final part concludes by highlighting the benefits of a well-executed audit. It notes that audits can help identify areas for improvement, strengthen internal controls, and build trust among investors and other interested parties.

1. 1990年12月25日，在“九七”香港回归前夕，香港各界人士纷纷发表文章，就香港前途问题提出自己的看法。

[illegible]



VIEW OF THE CAPITOL, FROM THE WHITE HOUSE BALCONY IN JACKSON'S TIME
Halftone of a lithograph by Currier, in 1848, in the Congressional Library

YOUNG CONSTITUTION

a pronounced anti-Mason, refused to serve. This, however, proved to be the beginning of the Whig movement of '34 in Pittsburgh, with Thomas Williams as one of its first managers and its ablest leader in advocating their principles.¹

It will be well, however, in this heyday of political life, not to overlook a little news item that appeared in the *Gazette*, a bit of correspondence from Columbia, on the Susquehanna River, dated April 5th: "With the opening of the rail road, between this city and Lancaster, and the events connected with the 1st of April, there has been no lack of subjects to converse about the past week. On Monday, three horse cars, with passengers arrived here, from Lancaster, on the rail road. They returned in one hour and a quarter—distance about 11 miles. On Wednesday, the locomotive made its first trip to this place, with three passenger cars in train. On Thursday and yesterday the horse cars were out; and yesterday afternoon the locomotive again made its appearance with a train of cars attached—time 57 minutes. * * * The 16th of April is the day appointed for the opening of the road the whole distance between this and Philadelphia. It is expected that a train of cars will leave this borough on the morning of that day, proceeding to the city, and return on the following."² New York was succeeding in getting good transportation entry to the trade of the West by canals; Baltimore was plainly going to succeed by a railroad, while Philadelphia was determined to fight her still greater obstacles by both means. Pittsburgh rejoiced in the efforts of them all, although she saw Wheeling as a rival in the aims of the rail line from Baltimore—however, it is not well to anticipate.

¹ On the 25th the first cargo arrived by way of the completed canal and portage railroad in the mountains eleven days from Philadelphia, and there was great canal enthusiasm.

² The *Pittsburgh Gazette* of April 11, 1834, Carnegie Institute.

CHAPTER VI

THE RISING LEADER OF THE WHIGS AND EDITOR OF THEIR ORGAN—"THE ADVOCATE"

THE GREAT CAMPAIGN OF '34

The political forces of Pittsburgh were fully lined up for action by the close of April, 1834, with the Whigs in aggressive leadership in an attempt to absorb the best elements of the old parties. On April 30th a big Whig jubilee was announced for May 6th, in Allegheny, to rejoice over the late victorious sweep over the State of New York. General Marks was to preside, and H. M. Brackenridge, Walter Forward, N. B. Craig and a score of other prominent men were vice-presidents, while Robert Burke, S. P. Darlington and a dozen others, including Mr. Williams, were the Committee of Arrangements. The jubilee was a great success; "undoubtedly," said the *Gazette*, "greatly the largest ever held in Western Pennsylvania." The *Gazette* estimated the attendance at about 3,000 and the *Advocate's* figures were even double those of the *Gazette*. "Yesterday," said the *Advocate*, "was indeed a proud day in the history of Pittsburgh. Never, we believe, in the Western country, has a meeting so large and in every way respectable, assembled. There was but one voice, and one sentiment, actuating the vast assemblage; and that voice and sentiment, as it rose like the murmuring of many waters, spoke the language of men who were determined to be free. Not a single dissenting voice was to be heard, when the resolutions, part of which we give today, were offered and adopted.

"The following resolutions were offered by Thos. Williams, prefaced by a few brief and eloquent remarks, and unanimously adopted.

"*Resolved*, that this meeting do reaffirm the solemn judgment of the American Senate, 'that the President of the United States, in the late Executive proceedings, in relation to the

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— *Portrait of a man* —

public revenue, has assumed upon himself authority and power not conferred by the Constitution and laws, but in derogation of both.'

"*Resolved*, that the recent Executive Protest against the foregoing resolution of that body, is a manifest breach of the privileges of the Senate, unwarranted by the Constitution or practice of this government—a personal indignity to its members, and a lawless and incendiary appeal to the people for the purpose of impairing public confidence in the perfection of the system, and producing a serious alteration of its framework, or the practical abandonment of some of its provisions.

"*Resolved*, That the doctrines announced in this extraordinary paper, are not less offensive and exceptionable, than the manner of its publication, involving a claim of power, which, if allowed, would at once destroy the whole system of checks and balances, render the Executive independent of Congress, and effect a revolution in this government, by the union of the sword and the purse, which would leave behind it nothing of a republic but the name.

"*Resolved*, that the functions assigned by the Constitution to the President, are in their nature *executive* or *legislative*, but not *judicial*; that the protest in question neither proposes nor refers to any *executive* proceedings—is not justified by any of the *legislative* powers conferred on the President; but its whole essence consisting in the conduct which it charges on the Senate, and the judgment which it pronounces on that conduct is (by the President's own showing) in its offices, and in all its characteristics essentially *judicial*; the assumption of a power to which the Executive has no color of right, an impeachment and condemnation of the Senate, intended to have the same moral influence, though not followed by a judgment of forfeiture like that which he has pronounced and executed on the Bank of the United States.

"*Resolved*, That the Senate of the United States are equally the representatives of the people, equally responsible to and no further removed from the constituent body, in the manner of selection, than the President himself—that the known character of that body is a sufficient answer to his accusatory appeal, and, from the nature of their constitution, and their acknowledged wisdom, they are more likely to arrive at just conclusions, and to be exempt from sinister influences, than any single individual, however exalted.

"*Resolved*, That it is not merely the right, but the bounden duty of the Senate to resist all assumptions of power, not delegated by the Constitution, and that to deny them this privilege,

would be to strip them of their most appropriate and useful functions, and to insure a complete immunity to the President, whenever the other branch of the Legislature, either through hasty popular impulse, party discipline, or that corruption to which the President has supposed them accessible, shall prove faithless to the trust with which they have been invested.

"Resolved, That the President's oath of office, wherein he engages to 'preserve, protect and *defend* the Constitution of the United States,' does not imply a right to *violate* that instrument, or a power of construction which shall supersede the jurisdiction of the Supreme Court, or take away the vested rights of the citizen, without the judgment of his peers.

"Resolved, That the appointment of high officers without the advice or consent of the Senate, and the *unqualified* power of removal asserted by the President, are violations of the spirit of the Constitution, and derogatory to the rights of the Senate, and fatal to the independence of the officer.¹

"Resolved, That if 'the concurrent authority of President Washington, of the Senate, and the House of Representatives, members of whom had taken an active part in the Convention which framed the Constitution,' be sufficient to establish the right of removal to any extent, the force of the argument would not be weakened by the superadded examples of subsequent Presidents to Congresses, and the solemn judgments of the highest judicial tribunals in the country, in its application to the question of the constitutionality of the bank of the United States.

"Resolved, that the Legislatures of the States are equally the servants of the people with those they have presumed to instruct—that the right of instruction is a power not involved in their own election—is no wise legislative in its character or tendency, and therefore, by the logic of the President, not obligatory on the Senate.

"Resolved, That the thanks of this meeting are due to the 'refractory' Senators who have been singled out as the object of Executive denunciation, for their bold and eloquent vindication of their own privileges, and the rights and liberties of the American people, in defiance of the machinations of party and menaces of power."²

¹ This, of course, refers to the removal of the Secretary of the Treasury and also the appointment of personal agents to inspect the banks. It will be recalled, of course, by every student of history, that Roger B. Taney was appointed by Jackson to the removed Secretary's place. This general knowledge of national history must be largely assumed in the reader, in the limited space intended to describe one man's relation to it. Taney was also a graduate of Dickinson College thirty years before Williams received his diploma.

² Reprinted from the *Daily Advocate* of May 7th by the *Gazette* of the same day.



... shall prove
... have been invested.

the constitution of the office, wherein he
 is authorized to alter the constitution of the
 office, and to alter that instrument,
 and to supersede the jurisdic-
 tion of the courts, and the vested rights of the
 people.

...and the *unqualified* power of
...the violations of the spirit
...the rights of the Senate,
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and the House of Representatives,
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re... .. have been singled out as the object
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tion of our rights and liberties of the
American people... .. the machinations of party and
members of...

It is not surprising that the removal of the Secretary of the Treasury and the appointment of inspectors and agents to inspect the banks. It will be recalled, of course, by every student of history, that Roger B. Taney was appointed by Jackson to the removed Secretary's place. This general knowledge of national history must be largely assumed in the reader, in the limited space intended to describe one man's relation to it. Taney was at a grand old age when Jackson College thirty years before Williams received his diploma.

... and from the 1 July date of May 7th by the Case of the ...



THE UNITED STATES BANK

Now the Custom House on Chestnut street, near Fifth Philadelphia Halfstone of an engraving from
drawing by C. Burton, in 1831, in possession of Mr. Albert Rosenthal, Philadelphia

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Among more than a dozen toasts that followed was one: "To the Memory of the first President of the United States.—Let no military chieftain, who has made the Emperor Napoleon his model, dare assume the title of the 'Second Washington.' "

One feature of the meeting was the presentation by Mr. Bakewell of a tentative Whig ticket for Congress and Assembly after the speeches were made, Harmar Denny, the then present anti-Mason representative in Congress, heading the ticket. The *Advocate* adopted the ticket, but the *Gazette* wished a regular convention.

Meanwhile, on May 10th, Mr. Williams wrote his wife, then visiting in Baltimore: "My time has been entirely engrossed by preparations for the Great Whig Festival, many of the preliminary arrangements being thrown on my shoulders as a member of the committee. A place was assigned me, quite against my will & in spite of my excuses & protestations, among the orators on that occasion; the concoction of the resolutions was devolved on me; and between committee meetings at night, visitations during the day at my office—three Arbitrations this week & the preparation of a Daily Article for the *Advocate*, you may readily conjecture that I have not had much time left for you.¹ * * * The Whig Festival of Tuesday was a spectacle I shall never forget. I have already described it in the *Advocate* (the Weekly copy of which I have sent you). I therefore shall confine myself to the leading incidents. But first of all I hope you will be satisfied that the complimentary notices of my performances were inserted by others without any knowledge or participation of mine. I never have witnessed such a crowd on any former occasion; if I should compute it at 7000, the estimate would scarcely be too great. The roofs of the neighboring houses were covered & the windows of the large cotton factory & all the houses in the vicinity were covered with heads. A gentleman told me that he counted 246 female heads in the windows of the factory & 88 of the same sex on Mr. Blackstock's

¹ It should be remembered that he was not yet generally known as the political editor of the *Advocate*. It was only surmised, even by the editor of the *Gazette*, and Mr. Snowdon, of the *Mercury*, the Democratic organ.

porch. After the object of the meeting was stated by the Chairman, as the resolutions were in my hand-writing, I was obliged to mount the platform & address the multitude. I had declined speaking previously, because I had no leisure for preparation, but the scene was too inspiring & the occasion too good to be thrown away. I made a bold plunge therefore, resolved to stand the hazard of the die & I was successful beyond expectation, as was evinced by the signs of approval which followed my remarks, & the congratulations which were showered upon me afterwards. I was followed by Judge Brackenridge in a very eloquent speech which you will see published. Burke, Fetterman, McCandless & one or two others addressed the meeting with great effect. The toasts were successively read by the Chairman, Mr. Burke and myself & I assure you it strained my lungs to throw a voice over that vast assemblage. A ticket was nominated for Congress & the State Legislature, on which your humble servant might have had a place if he had strongly desired it. Delegates were also appointed to the great Whig Convention to be held at Harrisburgh on the 27th inst. Judge Brackenridge, Mr. Bakewell & myself are three of the number. I permitted them to nominate me without pledging myself to serve.”¹

On May 13th a Whig Convention of the city was called for the 29th, to prepare for the county convention on the 31st. “We willingly publish, today,” said the *Gazette*, “the call for this convention, and presume that it will be scarcely necessary for us to say, that we consider the adoption of this course, by its movers, as ill advised, and not calculated to unite the friends of a sound currency, and the Constitution.” He showed that in the last election the average vote given by the combined Jackson and National Republican forces was 2,775, and the average anti-Masonic vote 2,359, and that the National Republicans claimed 1,000, although he believed it to be not more than 700. He urged them to wait.

Meanwhile the Constitutional Republican Association of the city that had been organized by Burke, Lightner, Williams and others issued a public address in pamphlet

¹ Williams papers.





"EXPLOSION OF BIDDLE & CO'S CONGRESS WATER FOUNT"
Halfstone of a cartoon by Major Jack Downing, in 1844, on the United States Bank War, original in the Congressional Library.

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form, which was sent out by their Committee of Correspondence, of which Mr. Williams was chairman, on the 19th. This association was the heart of the Whig movement in western Pennsylvania, and this long and powerful address was in Williams' characteristic style. "The Government under which we live, has now been in operation nearly half a century—scarcely long enough to develop its virtues and imperfections, without a crisis of sufficient magnitude to test its self-preserving powers, and under the zealous guardianship of the generation by which it was established. That race of men has now passed away; the last of the Signers of the Declaration of Independence, and all but one surviving remnant of those who framed the Constitution under which we live, have gone to join their illustrious compeers in another world, leaving to us the responsible task of preserving unimpaired, this great result of their united counsels and enlightened patriotism. Under the shadow of this well-compacted fabric, we have lived happy and free, and have become a prosperous and powerful people, inasmuch that if a radical alteration were now seriously proposed, we should perhaps answer with one voice, like the Barons of England—'we are unwilling to change laws and constitutions of our forefathers, which have been of old time used and approved.'" The address gathers momentum and fire as it proceeds to show the attacks of the President upon constitutional integrity. "When the clause of the Constitution directing the President to 'take care that the laws should be faithfully executed,' was interpreted to authorize a right of *interpretation*, and, by necessary consequence, a right of *violation* of all law, thereby erecting the *minister* of the law into its *judge*, the heresy was pointed out and the people were warned, but unfortunately the danger was not justly appreciated. Now mark the consequence! This indetical doctrine, which was regarded as inoffensive—the republican novelty, of less than two years' growth, has shot up into the stature of perfect manhood, and assuming the form of a two-edged sword in the hands of the Executive, has cleft down, at a single blow, the co-ordinate departments of the Government and the constitutional rights of the

citizen. * * * Yes, fellow citizens, *expediency*, the tyrants' argument, has become with us one of the reasons of state, and on a very *doubtful* expediency, the jurisdiction of the courts is superseded, the right of trial by jury refused to the stockholders of this institution [the United States Bank], and the meeting of Congress anticipated with an indecent haste, for the obvious purpose of shielding the act from reversal by the interposition of that monstrous engine of arbitrary rule, the Veto power—thus converting that which was designed by the Constitution as a shield of defense, into a sword of attack. * * *

The Government is declared to be *his* Government—the Secretaries, *his* Secretaries, and a power undisguisedly claimed over the public monies, which, if allowed, will inevitably revolutionize this Government, and enable the President with sword in one hand and the purse in the other, to stride to Empire over the ruins of this Republic." He follows with the subject of a sound currency with equal force, and closes with a powerful appeal on protection and internal improvement, unfortunately too extended for limited space, but worthy the perusal of every student of American history. He shows Pennsylvania's leadership in manufactures and refers to her great internal improvement system. "Who doubts," he continues, "but that for the blighting policy of this Administration, the waters of the Potomac and the Monongahela would ere long have been mingled together in fraternal embrace, and the gigantic improvements of our own State pushed at once into the interior of our Western neighbour, draining the commerce of the Lakes and the rich agricultural products of the State of Ohio into the lap of Pennsylvania—furnishing new outlets for our manufactures, and urging our city rapidly forward to the consummation of that high destiny marked out for her by Nature, in her commanding position, and inexhaustible resources?" "NATIONAL REPUBLICANS! SECEDING JACKSONITES! ANTI-MASONS! we stand indifferent between you. Our party—the Whig Party, is composed of many of you all."¹

On the 27th the State convention met at Harrisburg,

¹ Pamphlet among the Williams papers.

with Thomas Bakewell, Joseph Patterson, George Darsie, Thomas Williams, Neville B. Craig and Samuel Church as the Allegheny County delegates. Mr. Craig writes his paper on the 29th that he sees this "body is called *the Whig Convention*" by the Philadelphia papers; "this is wrong," he added; it was only a protesting convention against executive usurpation, remarks which still more betoken the attitude of the anti-Mason editor of Pittsburgh against absorption by the new party, at least in Pittsburgh. On the 29th the convention closed, after adopting resolutions and an address to the people of Pennsylvania, and appointing a committee to memorialize Congress. This committee, headed by John Sergeant, of Philadelphia, and numbering thirty members over the State, included Mr. Williams.

While he was gone the Whigs and anti-Masons at home had held separate conventions, and by June 12th all three parties had nominated tickets for Congress, the Whigs nominating Harmar Denny, the popular anti-Mason, in hopes of uniting the Whigs and anti-Masons, who again nominated Mr. Denny also, but plainly indicated that they were to preserve their party organization. Meanwhile the delegates of the Harrisburg convention reached Washington, and on June 3d their memorial was presented to the Senate. The response to it by Senator Daniel Webster is so noble that it ought to be familiar to every Pennsylvanian, either by birth or adoption. "Is this, sir," said he, "the voice of Pennsylvania? That is a question of very great interest at the present moment. The whole country has a concern in it. *Is this the voice of Pennsylvania?* If this be her voice, then we may hope that the day of relief, and of safety is approaching. If this be her voice, it is a voice of health and of rescue. The work of relief will prosper, it will proceed if her heart be in it, and her strong hand be put to it. Pennsylvania is one of those great central States, on whose determination, and on whose conduct, everything in regard to the future condition of the country seems to hang. If this center moves, with intelligence, union and patriotism, nothing can resist its force. For one, I believe that the sentiments expressed in this

memorial are, to a very great extent, the sentiments of Pennsylvania. I believe this is *her voice*. The proofs, I think, are satisfactory. * * * She has been an ardent friend and steady supporter of the present Chief Magistrate. * * * Three times she has given him her vote for the Presidency. * * * It is not wonderful that she should be slow and reluctant in withdrawing confidence where she had bestowed it in such bountiful measure. * * * It was a Convention, consisting of two hundred and fifty delegates, coming from forty-four counties, out of fifty-two, which the state contains. * * * The Convention was not composed altogether of delegates from any one political party." After speaking of anti-Masons and Whigs, he continues: "Seventy-five Jackson men, as they have been called, are on the roll of its members. Will not this striking fact produce its effect on gentlemen here? * * *

"The memorial speaks of Pittsburgh. It is now within a few days of twelve months since, for the first time I visited that city," he continues, "so interesting by its position, by its rapid growth, by the character of its inhabitants, and by the history of early occurrences in its neighborhood. It was then all animation, activity and cheerfulness. If the smoke of numerous manufactories and workshops somewhat darkened the air and obscured the view of the charming scenery around, it gave evidence, still, that occupations were prosperous, and that *labor* was well paid, and happy in its daily toil. Of thirty-thousand inhabitants, it is said two-thirds of them owe their means of livelihood to manufactures; and it may be asked, with emphasis and with alarm, unless activity be restored again to the loom and the forge, what is to become of this mass of human strength and industry, thus thrown out of employment?

"If, as this memorial alleges," to give but one more short extract from this extended speech, "the manufacturing industry is depressed and suffering, if it be discouraged, crippled, and threatened with ruin, who shall save it, if Pennsylvania shall not aid in its rescue? Where will it find support, if she abandon it? We have followed her lead, in fostering manufactures, and sus-

taining domestic industry, believing this to be a part of her settled policy, interwoven with her system, and that her purposes with regard to it were fixed and settled.”¹

Mr. Williams returned to Pittsburgh on July 27th and writes his wife, who is visiting in Wilmington still: “Business is at a lower ebb than it has been for years—almost as low as in Baltimore itself which presents a picture of universal decay.” *The Whig*, an Allegheny paper, also demanded his services, as well as the *Advocate*. “Business is yet dull, very dull,” he writes on the 31st, “but my fellow citizens have been providing employment for me in the editorship of the *Whig*—more honor than profit.” On August 14th he writes: “I have had the good fortune to render the *Advocate* very popular. Its patronage is growing very fast & it bids fair soon to drive the old *Gazette* in a great measure out of circulation.”² “The frequent calls on me in the capacity of Editor of a daily paper,” he writes on August 24th, “* * * the delicate health of Mr. Marks who has had two several attacks of cholera (from both of which he has fortunately recovered) devolving on me an additional amount of literary labor—all have conspired to engross a very large proportion of my time & render me of necessity a very pattern of industry.”

The Whigs were by this time making great gains, as even the *Gazette* freely admitted, and the *Advocate*, which Mr. Craig paid more attention to than all the other papers combined, estimated party strength as follows: Whigs, 2,390; anti-Masons, 1,850, and Jacksonites, 1,820. The occasional tilts between Mr. Craig and the still unannounced political editor of the *Advocate* served to enliven the strenuous contest, especially when the Unknown’s classical learning, now and then evident in the *Advocate*’s columns, is attributed to “Dictionaries of Quotation.” “If the editor [of the *Gazette*, who states that he owns one] is possessed of a ‘Dictionary of Quotations,’ he is happier than we, and no doubt his necessities

¹ The *National Intelligencer*, of Washington, D. C., June 10, 1834.

² Letters to his wife, among the Williams papers. Of course, in these home letters one must always allow for the quiet humor and badinage, which is allowable when the mind is *en deshabille*, and which must not always be taken seriously, for often they would not be said either seriously or publicly. The historical temper and perspective should be preserved toward them.

have forced him to the purchase. We know not how else to account for the possession of a book which may serve the unlearned, but can be no auxiliary to the scholar. It is only a matter of surprise that he has not put it more frequently into requisition, when a dearth of argument might have rendered it convenient to shelter himself, as Aeneas of old, with the aid of his goddess mother, under the friendly mantle of a thick cloud."¹ These sparks were only occasionally struck, for the two papers were both of an excellent order of editorial ability and conducted on serious lines. The *Gazette* still preserved its high place as the great paper of Pittsburgh and western Pennsylvania, but it had now found a rival worthy of its steel and also of its respect.

On September 6th (1834) the *Gazette* for the first time refers to "the present Whig leaders, such as Butler, Burke and Williams," thereby publicly recognizing Mr. Williams' position politically, and on that day, and also the 8th, charged Williams with causing the first breach between the anti-Masons and Whigs, which prevented union. On the latter day the *Advocate* replied: "On the second day of October last (day ever to be deplored)," it proceeds, "a certain gentleman of this city—whose name is not before the public, except so far as the *Gazette* has chosen to violate good breeding as well as editorial decorum, by taking unwarrantable liberties with it on divers occasions—offered a set of resolutions before the 'Young Men's National Republican Association,' condemning the conduct of the Anti-Masonic representatives from this county, whom they had been instrumental in electing, and declaring that they had forfeited all title to further support of that Association. On the ninth day of October, precisely one week after this unpardonable act, and one day after the election, the proceedings of the aforesaid meeting were published in the *Statesman*, accompanied by a commentary of the Editor, which is paraded at full length in the *Gazette*. * * *

¹ Quoted in the *Gazette* of September 1, 1834. Knoxville Mercantile Library. The only file of the last half of this year known is this one. It is interesting to note that the *Gazette* was published at this time near the southwest corner of the "Diamond," which made its location almost directly back of Mr. Williams' Fourth street office.

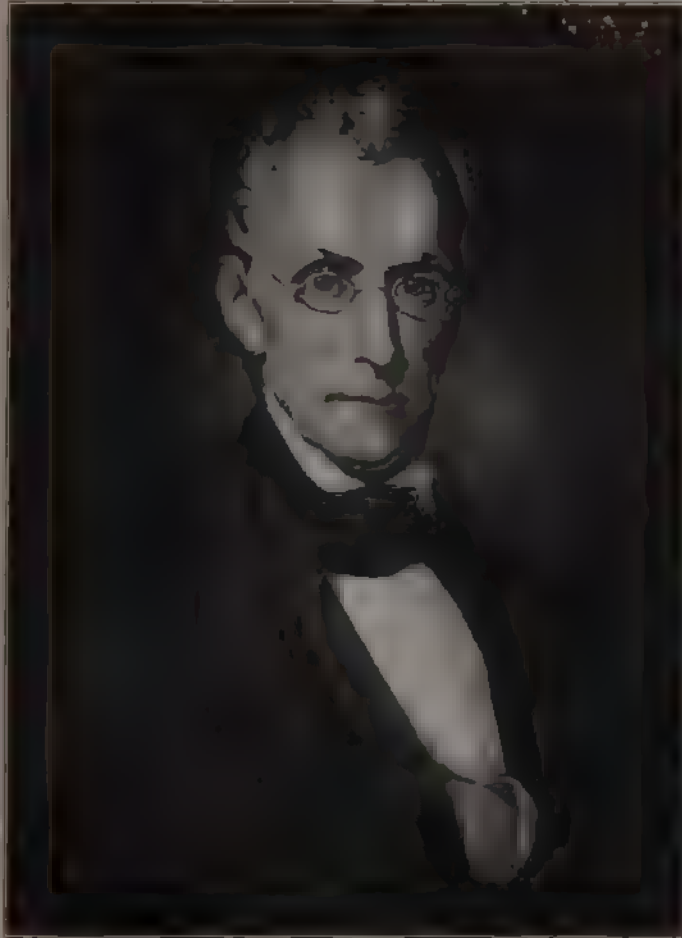


Portrait of a man in a suit and bow tie.

... We know not how else
... which may serve
... auxiliary to the scholar.
... that he has not put it more
... when a dearth of argument
... to shelter himself, as
... of his goddess mother, under
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... in the ... of September, 1848. Known as ...
... the only file of the ... is that ...
... that he ... at this time ...
... " ... which made its location ...
... office.



NEVILLE B CRAIG

Half-length of a painting by Lambdin, about 1840, in possession of Mrs. Annie
Neville Davidson, Pittsburgh

Handwritten text in a cursive script, likely a signature or a name, written in black ink on a white background.

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“Because the editor of the *Statesman* and one other individual have chosen to comment on the conduct of the Antimasonic members of the Legislature with freedom, and mayhap severity—the breach is irreparable—the whole Whig party—the constitution and liberties of the country are to suffer for their sins—the cry of onset is proclaimed, and the sword is never to be sheathed as long as those offending and unfortunate individuals enjoy a place in the Whig ranks—among the humblest of the defenders of the Laws. Most adequate cause of this sublime effect!! How complimentary to the patriotism of the great Antimasonic party, the inexorable and undying hate which will ever forbid them from listening to the call of their suffering country.” Undoubtedly the editor of the *Gazette* was making good use of some of the utterances of the young National Republicans of a year before, when there was no such desire for unity as at present, and when Mr. Craig wished to stem the anti-Masonic tide Whigward. The next day Mr. Williams publicly acknowledged his editorship of the *Advocate*, in response to the *Gazette*’s aspersions. “We sought no concealment for purposes which we would be ashamed to avow; we had no desire to deal our blows in the dark, that our hand might not be seen—we meditated no assassin like purposes—we sought no personal controversy;—responsible names stood at the head of the *Advocate*, and we preferred the shade, because it was most congenial to our feelings. The editor of the *Gazette* has dragged our name before the public, for purposes which they may now well understand—we are forced into a position of exposure, and as we know no fear even of his redoubtable pen, we gratify him at last, by throwing up our visor, and uttering our defiance anew. He is now welcome to all the advantage which this auxiliary may bestow, and we bid him turn it to as good account as possible.”¹

It will be well to note at this point that there was no personal enmity between Mr. Craig and Mr. Williams. They were both highminded men, as any reader of the *Gazette* and *Advocate* of that period could readily see.

¹ Quoted in the *Gazette* of September 9th.

They were fighting a common enemy, one with the intense convictions of the anti-Mason, who hoped to see his party ultimately be *the* national party, and the other, not a professional editor, but a citizen, in time of crisis, taking up the pen to unify an opposition on great general principles in a manner such as, in his opinion, anti-Masonry was not fitted to do. Indeed, it is doubtful if the *Advocate* was continued for anything but political purposes. "The *Advocate*," writes Mr. Williams to his wife on September 6th, "is doing excellently under my auspices, & *promises* to be profitable. [The italics are not his.] The Whig party will not hear of my leaving home at this juncture. They tell me they would rather pay your expenses with a kind escort." On October 4th he writes: "Yesterday I was busy at the primary election wherein we succeeded in thoroughly beating the Jackson & Anti-Masonic Ticket in the city & Allegheny town. Today I have been engaged in exchanging congratulations & writing puffs for the election. On Tuesday sen' night the election will be over, & the flame of politics will sink again into its socket." "GLORIOUS TRIUMPH—DOWNFALL OF JACKSONISM IN ALLEGHENY COUNTY!!" exclaimed the *Gazette* on October 4th. "*We consider Friday, the 3rd day of October, A. D., 1834, an important epoch in the history of politics in this county. Every succeeding election has found a step in the decline of Jacksonism but this is the end of it.*" The rejoicing, therefore, of Whigs over their success in Pittsburgh, and the anti-Masons over their gains in the county, and both over the widespread anti-Jackson gains in the Legislature and over the whole country, served to make the two leading Pittsburgh parties more conciliatory, but at the same time gave the Whigs new confidence in the solidity of their principles as a basis for a successful national party.

They began at once in November to make a fight on the mayoralty, to take it out of the hands of the Jackson element, and Mr. Williams was one of a committee on resolutions that gave public notice to all the opposition that they were ready to unite for it, but must have equal consideration, and therefore proposed an anti-Jackson,

not an anti-Mason Convention. With mention of this, merely to indicate the future attitude of the Whigs, the political movements may give place, as they did in Pittsburgh itself for a time, to the widespread movement for completion of the Chesapeake and Ohio Canal, to have its western terminus at the head of that river.

A great meeting was held at the court house in the "Diamond" on November 7th to appoint a delegation to a national canal convention at Baltimore in December and to select a committee of correspondence to agitate the matter. Mr. Williams was one of twenty-one for this latter purpose—and so was Mr. Craig, and Pittsburgh was at once a unit on this new question. It was noticeable that the next issue of the *Gazette* contained an interesting report from the Pennsylvania Canal agent, but the *Gazette* uses this very prosperity to show that before another year the Pennsylvania Canal would be unable to handle all the business eastward from Pittsburgh.

"It is in this respect," says the *Gazette* of November 10th, "that we consider the Chesapeake and Ohio Canal important and advantageous to the Pennsylvania improvements. Because, if it is once known that there is more tonnage here destined eastward than our canal can transport, persons at a distance fearing that their property might be detained for an indefinite length of time, would seek some other rout which, though more expensive, might be more certain. If we are not mistaken cases of this kind occurred at Philadelphia, during the last summer, merchants having goods there, fearing that they might be detained by the Pennsylvania Canal, preferred sending them by Baltimore to Wheeling, though the expense was greater. Before the Portage Rail Road was completed, many persons were unwilling to send their merchandise by the Pennsylvania Canal, because they know not how long it might be detained at Holidaysburg.—But complete the Chesapeake and Ohio Canal, and all risk of detention will be obviated." It is unfortunate that no copies of the *Advocate* of this date exist, so that Mr. Williams' first expressions on a theme on which his convictions became so momentous can be seen, but it is evident from the pages of the *Gazette*

itself that the *Advocate* and its young editor even then divided honors in supporting a means of communication between the headwaters of the Ohio and the metropolis at the headwaters of the Chesapeake.

CHAPTER VII

THE WHIG FIGHT AGAINST THE ANTI-MASON CANDIDATE FOR STATE SENATOR

WILLIAMS' NOTABLE ORATION OF JULY 4, 1835

Some principles, by their very nature, are capable of early realization in a given social order, and the wisdom which has an eye for this class of principles is not altogether uncommon. This is the class of principles and the kind of wisdom most commonly at the basis of what is ordinarily called successful character. This wisdom is constructive in spirit and brings visible things to pass that can be seen of all men. This wisdom consciously keeps its hand on the safety-valve and the lever that guide social or political conditions. But is there not another wisdom which has in its purview principles which, also from their very nature, do not materialize so early in a given social or political condition—principles that are more vitally structural, more organic in their nature, more permanent in their relations and results? If so, then there might easily be minds to which the latter would appeal, and, indeed, often the latter chiefly. In this case, there might be frequent phenomena that to most observers would look much like failure, and, indeed, to those able to view only the principles capable of early realization, would be failure. But to him whose eye beholds the permanent this is but the waiting on natural growth. His duty is done when he has seen and planted his great principles, and he has the sight and confidence which the uninitiated may denominate faith. Such a mind was that of Thomas Williams. This it was which enabled a character, poetic in temperament, shy in manner, retiring and sensitive, with a gentleness that, it is said, made his eye, when in repose, have the clarity of a child's,—this it was which enabled it to be con-

sistent with itself in those periods when, at times of crises in the great principles he beheld, he was roused to a fearlessness and steadfastness that faced the most strongly entrenched powers of industry and state and national government in high places.

He was not a politician, it need hardly be said. So when, after the lull in politics during the early winter of 1834-35, the *Gazette* of January 7th takes pleasure in quoting from the *Times*, that "Mr. Williams intimates that whatever the rest of the Whigs may do, for his part he will not support Mr. Lowrie," the anti-Mason candidate for Mayor, the attitude of Mr. Williams was not based on any antipathy to Mr. Lowrie or any love for the Jackson candidate, but solely on his determination to help lay the foundations of a great permanent national party. The Whigs remained neutral in the contest for the most part, the vote being 400 less than in the October election, and the Jackson candidate won by a small majority.¹ Replying to the *Gazette*, Mr. Williams said, in the *Advocate* of the 21st: "If the *Gazette* had stated that the Whigs would not be coaxed or driven into the nothing but Antimasonry policy, to which it has always inflexibly adhered, it would have come nearer the truth. The insinuation of doubt or irresolution on the part of the *Advocate* is a gross libel, entirely unwarranted by the circumstances. When invoked, its opinions were declared promptly and openly, and the position which they indicated never departed from during the whole campaign. It was an armed neutrality, if you please, entirely independent of both combatants, alike careless of their favor and regardless of their frowns—distrustful of both, but fearing neither. Because, forsooth, it would not enter the lists either for the Antimasons or the Jacksonites, it 'knew not what to do'—as though our position were like that of a mariner in a burning vessel, who must choose between the flames and the fishes, with the same merciful prospect from both! Because we will not espouse the cause of Moloch and go to war against

¹ They had even put him up for the Common Council, for which he received sixty-seven votes, presumably anti-Masonic, for he was not elected, and the Jackson men won.

Belial, or because we will not choose between two evils, when there is no necessity for a choice, but do most heartily eschew both, we are supposed to have no alternative but to sit down and twirl our fingers, not 'knowing what to do'! Now, we might be pardoned for husbanding our strength, and maliciously enjoying a controversy between two common enemies—or perhaps even desiring an issue like that of the clapper-clawing between the two Kilkenny cats, who fought until there was nothing left but their tails. * * * We can assure the *Gazette*, once for all, that so long as it, and the party it represents, insists on occupying the exclusive ground of Anti-masonry, we are not likely to agree on any occasion. We would rather throw up our arms entirely than fight under its proscriptive banner, so long as it will accept no other terms than the entire annihilation of the Whig party. We will take neither the Koran nor the sword from their hands, while we have the power to decline the one or resist the other.”¹

Meanwhile the canal movements were active, and another Chesapeake and Ohio Canal Convention was called to meet at Pittsburgh on February 3d, the committee on arrangements for it being Davis, Bakewell, Williams, Shinn and Dallas, who were by special vote also made members of the convention. The *Wheeling Times* remarks on this convention as a wooer of Baltimore.² The *Gazette* retorts that “We are now satisfied that the citizens of Baltimore are perfectly aware that their line of two wagons a day to Wheeling, is but a poor dependence for retaining the great western trade. They perceive, clearly, that some more energetic measures must be adopted, or the business of Baltimore will soon depart.” The Philadelphia Board of Trade is also active in aiding all movements toward improving and enlarging the service between the Ohio and its own port, and deprecates the tolls that make the New York Canal route more profitable to shippers. “It is a fact,” says the

¹ Quoted in the *Gazette* of January 25, 1835. Mercantile Library, Knoxville, Pittsburgh. The *Gazette* devotes a column and a half to notice of this, and explains, with great care and fullness, who Moloch and Belial were.

² Quoted in the *Gazette* of March 14th.

Gazette, "and one calculated to show the importance of our local situation, that the legislatures of New York, Pennsylvania, Maryland, Virginia and Ohio, and the Congress of the Union, have each before them one or more memorials, for improvements,—all designed to lead directly to our city. In New York, there are the great rail road, and the Rochester and Olean Canal; in Pennsylvania, the connection with Erie, and the Ohio Canal; in Maryland, the Chesapeake and Ohio Canal; in Virginia, the same canal; in Ohio, the two Cross-Cut Canals; and in Congress, the Chesapeake and Ohio Canal, the improvement of the Monongahela and also of the Ohio. So that the representatives of nearly six millions people, in five states, and the representatives of the whole union may be said to be deliberating upon our immediate interests."¹

On the 4th of March the two gubernatorial conventions meeting at Harrisburg precipitated anew the political conflicts, and when the anti-Masons nominated Ritner, "A Whig," in the *Advocate*, advised all Whigs to vote for him, for the public good, against Wolf, the Democratic nominee. The reason being that Ritner more nearly represented Whig principles, and the Whigs probably had the balance of power now, but might not elect a man of their own. Mr. Williams, however, favored an independent candidate, and on March 28th, at the Whig meeting, offered resolutions looking toward a State convention in June in some central place, to be decided later.² Meanwhile the anti-Masons proposed to make a great demonstration at Pittsburgh on the coming July 4th, and on April 19th asked Thaddeus Stevens, of Gettysburgh, and H. M. Watts, Esq., to be their orators. On June 3d they held a convention and nominated candidates for the Senate and Assembly, Cornelius Darragh

¹ February 28, 1835.

² A suggestive notice of Chicago is reprinted from the New York *Commercial Advertiser* on May 11th: "Chicago contains at present between three and four thousand inhabitants. Three years since it was only a military station. The State is rapidly settling with emigrants of industry and character as well as means, and will soon outrun Ohio. Chicago * * * will command the trade of the Illinois River and Mississippi by means of the canal; and the west and the east by the navigation of the Lakes. * * *" The *Gazette* comments on it, saying: "Persons well acquainted with its localities confidently predict that it is destined to be one of the greatest cities of the West."

being their choice for the former. The Whigs called a meeting on June 10th and arranged for a big celebration on the Fourth. Evidently the Whigs were greatly divided on the matter of a separate State convention and the support of Ritner. A meeting was held on the 23d by a large following of Whigs, with Mr. Bakewell as chairman; it decided to vote for Ritner and announced Daniel Webster as a candidate for President. Mr. Williams apparently took no part in this meeting, and the *Gazette* continued to betray great anxiety as to his course. It betrays some apprehension lest the Fourth of July Whig meeting launch a new Senatorial and Lower House ticket, and on the 1st of July its apprehensions were shown to be well-founded, for the Whig committee announced that to be their purpose. The meeting was to be held on the banks of the Monongahela at Miltenberger's Orchard.

As a rival orator to Thaddeus Stevens, the Whigs at Miltenberger's Orchard produced Hon. H. M. Brackenridge and none other than the political editor of the *Advocate*, Thomas Williams.¹

"If a stranger, my fellow citizens," Mr. Williams began, "should first set his foot on our shores on this auspicious morn, and ask as he naturally would, what meant this universal rejoicing which saluted him from every side, how would be your reply? You would tell him that no royal birth, no imperial nuptials, no kingly coronation had graced this day or claimed it for the homage of an annual festival. He would read in the glittering eye and swelling chest, that some great national achievement, some lofty enterprise done for the benefit of the people, had crowned it with immortal honor, and consecrated it in the public gratitude. He would be quick to perceive that the joy which was radiant in every countenance, and the fire which illumined every eye, were the spontaneous overflowings of a grateful heart, touched by recollections as potent as the rod which smote the rock in the wilderness and drew the living waters from its side. He would be only curious to know what those recollections were. You would answer his inquiry by saying, that on the day to which they referred, no warring nations

¹ Nothing, except the fact that Judge Brackenridge did speak, is known of it. Even this fact is learned only by a reference to it in a public letter in the *Gazette* of July 8th. This was the son of Judge H. H. Brackenridge, who, although not so talented as his father in some ways, was equally prominent as a jurist.

had been joined in battle, no bloody trophies had been gathered on the field of death. You would tell him that you were commemorating the birthday of the first empire which was ever founded on the imprescriptible rights of man, and as you unrolled the glorious charter which has just been read, you would point him to the recognition of a truth which was then first solemnly proclaimed. Yes! my fellow citizens, we are assembled to commemorate the proudest day in the annals of all time—the most momentous epoch in the history of the world—the era of popular sovereignty—the nativity of American Independence—the ever memorable Fourth of July. Neither are we alone on this occasion. No petty or local interest has congregated us together. Thirteen millions of our fellow citizens are uniting this day in the same solemn thanksgiving—but one exulting pulse is throbbing over this whole land—and the echoes of the morning gun which ushered in this great anniversary on the hills of the Penobscot, have been prolonged and reverberated from valley to valley, until the whole land has become vocal with gratulation, and the swelling chorus has died on the Gulf of Mexico. Nor does it end here. The wanderer from our shores—no matter in what foreign realm he may be—whether he be climbing the rugged Alps or basking on the sunny plains of Italy—whether he be pursuing a gainful commerce in the Indies, or harpooning the whale in the Pacific—however estranged he may be from the land of his nativity, will turn on this eventful day to the country of Washington and Franklin, and exclaim with exultation—‘I too am an American citizen.’ The friends of liberty in every land will hail the recurrence of this day with equal satisfaction. It will be honored and observed wherever humanity has a champion or freedom a friend—for what land has not heard our report—what region of the earth is not full of our labor?* And how can it well be otherwise? The act which has immortalized this day, is in moral grandeur almost without a parallel—it is only approached in the history of its glorious and triumphant consummation.

“It was a dark and gloomy hour when the representatives of thirteen diminutive colonies, with a joint population of scarce three millions of souls, first ventured to discuss the question of Independence. They had been oppressed, but they had meditated no separation; they were in arms, but it was only in defence of their privileges as British subjects; blood had been shed, but blood was a cheap offering in defence of that which belonged to them by birth-right, and had been secured to them by charters.

* “*Quae regis in terris notari non plena laboris?*”—Virg.

They sought only to be re-admitted into the embraces of their mother country on the footing of children and not of bondmen. They had petitioned—supplicated—remonstrated. Their entreaties had been disregarded—they had been goaded into rebellion by repeated insults, and they were even yet willing to return to their allegiance the moment their grievances should be redressed. Strange indeed must have been the blindness which could even then have closed the eyes of the British Ministry, against the consequences of their folly—strange the infatuation which could have hardened the heart of the monarch against the cries of his suffering subjects, and sealed his ears against the eloquent and prophetic warnings of the great statesman whose name now graces the city of our residence! 'I rejoice,' said Mr. Pitt, when the proposition to repeal the stamp act was under discussion in the British Parliament, 'I rejoice that America has resisted. Three millions of people so dead to all the feelings of liberty as voluntarily to submit to be slaves, would have been fit instruments to make slaves of ourselves. America, if she fell, would fall like the strong man. She would embrace the pillars of the State, and pull down the Constitution along with her.'

"The determined attitude of the colonies, seconded by the remonstrances of this truly great man, did indeed alarm the British Government into a repeal of the obnoxious law. But the evil genius of Great Britain again interfered. The pride of the nation must be saved by an unfortunate reservation in behalf of the article of tea. But the American character was mistaken. The colonists were not to be satisfied with anything short of a total abandonment of the principle which was thus attempted to be preserved. Like the immortal Hampden, they did not regard the paltry penny which was attempted to be imposed, but they felt that the payment even of a penny which was levied without their consent, would make them *slaves*. '*Taxation without representation*' was not more palatable to the Whigs of that day, than '*nomination without representation*' to the Whigs of this.¹ They resisted the law, and the military was called in to coerce them. Vain and impotent attempt! Did they not know that the subjugation of freemen was not to be effected by mercenary arms? Fools! Did they not know that a harvest of armed men would spring up from the first blood which was spilled on the soil of New England? If they did not, their eyes were soon opened. The blow which was struck at Lexington lost an empire to Britain. The report of the first hostile musket started the chivalry of the country to their feet

¹ Reference to the anti-Masonic method of doing the nominating for the Whigs to support.

—the first clang of the war trump broke the slumbers of the people. The beacon fires were lighted on the hills—the ox was left in the furrow, the sword girt on the thigh, and the rifle snatched from the wall. A hasty parting embrace of wife and children, and the yeomanry of New England, with the blessing of their grey-haired sires, went up in thousands to avenge the blood of their brethren. But the warning voice which spoke in thunders from Bunker's Hill, and drenched its sides with the blood of the oppressor, was not heard beyond the Atlantic. Even the Spartan valor which reckoned not the odds when there was a question of privilege, though it challenged admiration in every land, could secure no favor in the land of our progenitors. The efforts of those brave men were despised—their overtures rejected, and the determination boldly proclaimed to coerce them into unconditional submission.

“It was under these circumstances that the second Continental Congress assembled in Philadelphia, and it was in that Congress that Richard Henry Lee of Virginia, and John Adams of Massachusetts, first brought forward the proposition of *Independence*. The House was electrified at the boldness of the proposal, the subject was referred to a select committee, and the eloquent declaration which you have just heard, was unanimously reported, and almost unanimously approved. That declaration, uttered at such a period, was an effort of moral heroism which can scarcely be appreciated at the present day. The cause was just, the contest was unequal. On its issue depended the personal fates of those who gave it their sanction. Lawful resistance, if unsuccessful, would be construed into *rebellion* against rightful authority. Confiscation of property, and forfeiture of life would be the penalties of failure. The declaration pledged their ‘sacred honor.’ All else was surplusage. Their lives and fortunes were already embarked in that pledge. They knew the terms, but they chose the hazard, and appealing to the God of battles, threw themselves upon the people for support. And nobly they were sustained. No thought of submission flashed across their minds even in the darkest hour. The sword once drawn was never to be sheathed until it had hewn its way to Independence. Providence had provided for them a leader who conquered by reverses, and drew resource from adversity. Need I point him out on an occasion like this? The name of the sainted and immortal Washington is already on your lips, as his image is enshrined in the heart of every true American. With such a man at the head of their armies, no disaster could daunt—no reverses could overthrow—weakness was turned into strength and victory won by delay. The

prostrate spirit, and the dying hope were lifted up, and revived by some brilliant effort, whenever the cause of the country languished—the startling surprise succeeded to the general despair, and the skirmishes of Trenton and Princeton achieved more important results than the field of Waterloo. High in public confidence—bearing on his shoulders the whole responsibility of the struggle, and more than once invested with the power of a dictator, this God-like man was ever true to his exalted station, and ever trusted by those whom it was his happiness to represent. Under his glorious auspices, the flag which had been unfurled at Lexington and Concord, and had flamed through the smoke and carnage of Bunker's Hill, was carried aloft through the storm of Revolution until it floated triumphantly over the battlements of Yorktown. The glorious strife was consummated there, and the act of the Fourth of July, which had been sealed by the blood of martyrs on many a hard fought field, was recognized by the power which had vainly attempted to enslave. The lesson was again rehearsed which had been taught of old time at Marathon and Thermopylæ, that the arm of the freeman is strong against the oppressor, though his fleets cover the sea, and his armed hosts are countless as the sands along its shores. The people of this land were free, and we are assembled this day to thank our forefathers for the proud inheritance which they have left us, and to verify the prophetic and soul-stirring prediction of him who was said by Jefferson, the author, to have been the pillar of the declaration. 'We shall make this a glorious, an immortal day. When we are in our graves our children will honor it. They will celebrate it with Thanksgiving, with festivity, with bonfires and illuminations. On its annual return they will shed tears, copious, gushing tears, not of subjugation and slavery, not of agony and distress, but of gratitude, exultation and joy.' Thus spoke the Prophet and the Patriot on the day of our independence, and we stand here this day to fulfil the prediction.

"Honor then to the sages who planned, and the heroes who executed this great work! Immortal honor to the shades of those who fell like Warren and Montgomery on the blood-stained field! Honor alike to the war worn veteran who followed the standard of his country, through summer's heat and winter's cold, and perhaps sunk on the toilsome march or perished in the mortal fray! He may have been buried in the trench where he fell without a minute gun or muffled drum to celebrate his obsequies. The tears of a grateful people will now fall like the refreshing rain drop on his lowly bed. *His* was the labor—*ours* the recompense. He but fulfilled a portion of

the destiny of this country; it belongs to us to insure its consummation. His then be the honor; ours the endeavor to perpetuate the blessings which were so dearly purchased. The same Providence which created this continent designed it to be the theatre of great events. In the original allotment of the earth, it had been evidently reserved as the patrimony of the free. The red man had been its occupant until the appointed time, but he too was free as the air of his mountains and possessed a charter as large as the forests over which he roamed. The white man came. Freedom of conscience was his errand. He sought an asylum from persecution and he found it here. Under the shadow of the tree which his own hand had planted, he grew & waxed strong and prosperous. The spoiler came, but he was met on the threshold, and indignantly repelled—and he was met too near the rock of Plymouth by the descendant of the pilgrims. The oppressor found a grave where he meditated an empire, and the title to the soil once won from the rude hand of nature, was again repurchased by the good swords of our fathers, and dedicated anew to the sublime purposes for which it had been originally designed.

“No sooner, my fellow citizens, had our fathers struck off the fetters of colonial bondage, than this union, like the young eagle, plumed its wings, and soared away into the mid heaven a spectacle and a wonder to the nations of the earth. No drag chain of dependence now retarded its movements—no chill sat upon its energies. It felt the glow of its new born freedom and bounded forward in the race with a vigor which paused at no obstacle and a fleetness which outstripped all competition. And what was it my fellow citizens that effected this change? What is it that has wrought all these surpassing wonders which we see around us, and unlocked all those amazing energies which our country has exhibited within the last fifty years? What potent charm, what talisman of mighty power has urged this country so rapidly onward towards the consummation of its high destiny? The secret is familiar to you all, and you have taught it to the world. It is no other than the application of the simple truth which the world has been so long learning, that all *power* emanates from the *people*, and can only be legitimately exercised for *their* benefit. You have taken the government into your own hands instead of delegating it to a king, who might chance to forget that he was your servant, and take a *little too much* of the responsibility.¹ You have made sure that the Government will be administered for the benefit of the *people*,

¹ No one in that assemblage needed to be reminded of Jackson in this connection.

by making the people themselves the governors. This is all the magic that you have employed. The question of self-government is now triumphantly solved, both as to its practicability and usefulness in the history of our separate existence as a nation. We have proved to the world that a republic is no chimera, and that man can only attain his true moral and intellectual stature as well as his true happiness in a state of freedom.

“And yet it is equally true that a high degree of moral and intellectual culture is necessary to qualify us for citizenship in a country where every man is a *sovereign*. The quality of a government is generally regulated by the character of the people. An *absolute* or *limited* monarchy, according to the ratio of the public understanding, is the proper government for those who are unfit to govern themselves. When they improve they will rectify it of their own accord. A republic on the other hand presupposes a high degree of human perfectibility; and as we approach that line we may successively and safely discard all those features which distinguish it from a mere democracy. Our government is emphatically *a government of the people*. The *virtue* and *intelligence* of the people then are the two main pillars upon which it rests. It has cost blood and treasure to establish it. If it is worthy of preservation, the people must be qualified for the high function of government, by inspiring them with a wholesome love of country and imbuing them with a thorough knowledge of its true interests. Of their patriotism I have never entertained a doubt. Assail them from without—a million of swords will flame from their scabbards, and the roll of the war drum will marshall them along our coasts. But the danger lies not here. We may be *cheated* of our liberties; they never can be cloven down in the battle field. As it is the tendency of all things human to decay, so a great body like this will surely engender corruption, unless it is guarded with the strictest jealousy. ‘Power will be always stealing from the many to the few,’ and it will always find allies and advocates in those miserable sycophants who are ever crawling around its footstool, and batten on its prodigality. They too are pre-eminently the friends of the people! ‘*The dear people*’ is ever on their lips. Beware of their approaches—trust not their hypocritical pretences; they flatter only to destroy. They are the serpents who would beguile you, and turn this Paradise into a Hell. They are even now at work amongst us—the eternal warfare between *power* and *privilege* has again commenced in this land. An overflowing treasury has nourished corruption amongst us, and out of that corruption has levied an army of mercenaries, a prætorian band, who are at this moment seeking

to give away the empire. But thank God! the people have taken the alarm, and the republic is safe. The Whigs of America have shouted 'to the rescue,' and their rallying cry has thrilled the land. Time-honored, and chivalrous title! Another crisis has waked thee from the dust! It is a glorious omen, my fellow citizens, the resurrection of this hallowed name. Cherish it—preserve it. It has never been dishonored—it belongs only to the free. That name so fraught with historic recollections will be itself a pillar of fire in your path—it will never suffer you to be false to the principles to which it has been consecrated. Those recollections will inspire you with confidence, and lead you to victory. What though you be outnumbered? So were the Whigs of the Revolution, but *they* never waited to calculate the odds. What though a portion of your brethren here may have shrunk from the contest, from an apprehension of weakness, or embarked their fortunes on another bottom? So did the timid and time serving patriots who deserted the American arms after the disasters of a single campaign. The Whigs of that day were not daunted by the defection. Though reduced to a handful, they neither disbanded nor despaired. Like the three hundred at Thermopylæ, they went up to battle against the thousands of the invader. The blessing of God was upon them, and the same hand led them through the perils of the revolution to the Independence at which they aimed. What then have you to fear? Your cause is the same. You have girt on their armor—you have flung abroad their refulgent banner, and if there is truth in history, or virtue in man, 'by that sign you shall conquer.' But if the past will not encourage you, see what there is in the future, and draw from it a new motive for exertion.

"Three score years have not yet elapsed since that great event which we are now commemorating. Three millions of people only were then the proprietors of this fair domain. Some venerable relics of those days are still among us, though a new generation has taken their seats at the council board, and usurped their places in the halls of legislation. The ground whereon we stand was then a wilderness, tenanted only by wild beasts, or still wilder men, and sleeping in the universal silence which had brooded over it since the creation. What is it now? Is the past a fable, or is the present a dream? The great features of nature, it is true, still remain unchanged. These towering hills still frown above us and around us—these magnificent rivers which environ us, still flow on as they have flowed since their fountains were first unsealed—ever changing but still unchanged. But all else is new. The smoke of a thousand chimneys now tinge the blue ether above our heads. Below a

new and mighty agent unknown to our fathers, whose very breath darkens our atmosphere, is doing the work of man, forging the stubborn bar, and driving the busy wheel. Religion has built her temples on the hills, and commerce has launched her barges on the waters. But the wonder has not stopped here. Civilization has leaped the Ohio, and bounded over the valley of the Mississippi with the speed of the race horse, turning the wilderness into a garden, and building her cities and palaces in the desert. The exhaustless flood of emigration is still sweeping onward—onward in the track of the pioneer, swelling and strengthening and deepening, like some mighty river as it advances, until it has rolled its tides even to the foot of the Rocky Mountains. By and by, it will overleap that barrier and the Eagle of America, taking a higher and a bolder flight than the Eagles of Rome, or of Napoleon, will bathe his broad wing in the waters of the Pacific.

“Is there anything extravagant in these sublime anticipations? The question is answered in the history of the *past*. We are called by foreigners an *egotistical* people. *Egotistical!* Be it so.—With such a country as ours, and all its high hopes for an inheritance, how can it be otherwise? Why, the sun never shone on such a land as this which we inhabit. Everything about it is grand. Its broad belts of forest and prairie—its cloud capped mountains—its great inland seas—its mighty floods—all are on a scale of magnificence which has no parallel, all point unerringly to its future destiny. That destiny is written in all its features. It is engraved on its everlasting hills—it is felt in the immensity of its forests—it is proclaimed in the thunders of its cataracts. Tongue cannot tell—imagination cannot conceive the whole future. It outruns conception and strikes admiration dumb. The mind grows dizzy and is bewildered and lost in the sublime contemplation. What may it not be a century or two hence? Already twenty-four independent nations, with thirteen millions of inhabitants are scattered over its broad surface, and all, too, members of our great family of freemen. Who shall say that a century hence an hundred millions of freemen shall not sit down under the shadow of that immortal banner, and shout hosannahs to the name of Washington? Who shall say that all this vast continent shall not one day become one great republic—that the Andes shall not give back, on this day, the shout of the Alleghenies, nor the voice of thanksgiving which rises from the valley of the Mississippi, be reverberated in thunders along the banks of the Amazon? It may be a wild speculation indeed, to suppose such a contingency as the union of all these people, but to suppose their universal freedom is

clearly within the range of probability. The great events which have taken place all over the continent, furnish high assurance that its destiny will soon be fulfilled, and that destiny will be only complete, when it shall be covered with people, and know within its broad circumference no *slave*.

"But there is more in the future than we have yet ventured to anticipate. We seek no foreign conquest—our territory is large enough even for ambition. But it is not wide enough for philanthropy—it is not vast enough for the empire of freedom. I do believe in God, that this empire will be one day coextensive with the habitable globe. The Millennium of the Christian must be heralded or followed by an era of political regeneration, when the rein will be slackened on the neck, and the empire of force superseded by the government of reason. The free and fearless and inquiring spirit of the age, bespeaks the rapid approach of that era, and there is every reason to believe that ere long, the people of the old world will assert their rights, and march over the 'ruins of thrones and principalities,' to light their fires at the altar which was kindled in '76.

"It is for you then, my fellow citizens, to keep that flame alive. It may languish, but it must never die. The world has an interest in its preservation. If you suffer it to expire, you will be held accountable for your negligence, to posterity and to mankind. If you are vigilant and fearless, it will flame broader and higher under every blast that assails it, but that vigilance must be directed by a sound conscience and an enlightened understanding. These are the conditions of your liberty.—You must be *virtuous and intelligent*, if you would be free."¹

The *Gazette* ignored this event entirely, but the noble discourse was destined to be not only the awakener of the local audience who heard it with such profound impression, but the inspirer of embryo statesmen and educated leaders in college halls all over the West for over a score of years thereafter, and men in the halls of Congress in years to come were to confess to its influence at

¹ From a copy of the original published pamphlet of July 8, 1835, among the papers of his wife, the only copy now known. It is four by six inches, small type, and fifteen pages. The committee of publication was M. B. Miltenberger, Lewis Peterson, D. M. Hogan, Wm. Graham, Jr., G. W. Jackson, George R. White and Wm. D. Wilson. "In the discharge of this duty," they said, in asking for his manuscript, "we cannot deny ourselves the pleasure of assuring you, that the sentiments contained in your address, are calculated to draw together in closer bonds of union, the opponents to the prevailing profligacy of the times. We therefore feel anxious, that every document, calculated to enlighten the honest and well disposed of all parties, should be made to reach the community, more especially when the principles of American policy are expressed in language as pure, as the argument is conclusive." It was printed by Wilson. The second edition was printed in octavo form by W. S. Haven.

the opening of their careers. Over thirty years afterwards a Baltimore paper said it "was immediately seized upon and appropriated in the leading colleges of the West, and has enjoyed the singular distinction of having entered into every literary contest of the most important of them, for so many years, as to be still remembered, in many of its passages, even by members of Congress, who have been educated from time to time, at those institutions."¹

One of the immediate results of the oration in Pittsburgh, however, was the enthusiastic launching of a legislative Whig ticket—Robinson for the Senate and Judge Brackenridge heading the list for the Lower House. It was evident that the public looked upon Mr. Williams as the backbone of this independent Whig movement and although it was also evident that notwithstanding the large defection of Whigs to the anti-Masonic ranks, all papers betrayed much concern as to what program the political editor of the *Advocate* proposed. It is notable, too, that during August conventions were announced on the revision of the old Constitution of 1791—which tended to involve the political situation over the State still more. The Democrats of the State were badly divided over Wolf and Muhlenberg, so that with the anti-Masons and Whigs for Ritner, the latter's prospects were hopeful indeed. By September the opposition to Van Buren as a Presidential possibility began to develop General William Henry Harrison and Daniel Webster as Whig possibilities. In October "the Spurious Whigs," as the *Gazette* delighted to dub them, organized a committee of correspondence with Mr. Williams as chairman. It may be noted at this point that the *Advocate's* course was watched with interest all over the State. The *United States Gazette*, of October 10th, spoke of "The Pittsburgh Advocate, a sound, wholesome Whig paper." It made a brave stand for its legislative ticket, and for its senatorial candidate mustered 1,206 votes in the county. This was, however, only about half of the Democratic vote and about one-third of that of the anti-Masonic candidate. The struggle, however, had preserved the Whig party of

¹ The *Baltimore Chronotype* of June 27, 1868, in its series of sketches of public men.

Pittsburgh and given it a nucleus for co-operation with the growing Whig sentiment over the country in the still greater struggle now approaching, for the Presidency of the United States.

CHAPTER VIII

THE GREAT ANTI-JACKSON AND WHIG MOVEMENTS IN PENNSYLVANIA

CHANGE IN STATE CONSTITUTION AND ELECTION OF WILLIAMS TO THE STATE SENATE

1836

In the six long years of fight against Masonry in the effort to make a national political contest, the anti-Masons were never more encouraged than at this time, at least in Pennsylvania. On the other hand, the Whig gains all over the land and their renewed sense of balance of power between the anti-Masons and Democrats gave them encouragement for national success to a degree never before realized. The result was a fierce energy in efforts to unite or absorb one another in the State of Pennsylvania.

Forthwith the Whigs united for the Presidential campaign, and anticipated anti-Masonic official action (although the *Gazette* had announced itself for Webster) in a convention on November 7th at the court house in the "Diamond" to nominate Daniel Webster. Messrs. Bakewell, Foster, Williams and Fairman made the speeches, and Mr. Williams was made one of a large committee to communicate with Mr. Webster, and was chosen one of five delegates to a convention at Harrisburg on January 4th next, Darsie, Caldwell, Foster and Bakewell being the others named. It is well to note at this point than only four days before, at Brownsville, a railroad meeting was held to urge the extension of the Baltimore and Ohio road from Cumberland to Brownsville and thence to both Pittsburgh and Wheeling, and to call a general meeting of the sections interested. On the 11th the anti-Masons held their Webster meeting and

appointed delegates to the "Democratic Anti-Masonic" Convention in Harrisburg on December 14th, thus anticipating the Whig State Convention. On November 24th followed a Pittsburgh meeting to appoint delegates to the Brownsville convention, and Mr. Williams was one of eleven delegates chosen. At about this time, too, some alarm was expressed over the fact that, notwithstanding Ritner's election and eleven thousand or so majority for a constitutional revision convention in the State, the Legislature seemed to be about 66 to 34 against the convention. On the 25th the Brownsville meeting was held with great success, and Mr. Williams was chairman of the Pittsburgh membership of the resolutions committee. In order to appreciate the impulse in Pennsylvania toward internal improvements one needs but to know that since the policy was definitely adopted in 1826 the State had spent nearly twenty-two and a half millions of dollars for that purpose. The public school system, whose creating act had been passed on April 1, 1834, was now in course of organization over the State; by this time, leaving out the counties of Philadelphia, Montgomery, Clearfield and Greene, 536 of the districts had accepted and 371 had rejected the provisions of the law, so that it was another source of political agitation. So also was the Abolition movement.

It was also about this time that the Whig committee heard from Mr. Webster, and, while he was free in expressing his belief against secret societies in his letter to the anti-Masonic committee, he thought the time had not yet arrived to announce his sentiments in regard to the Presidential nomination.

"Boston Nov. 20, 1835

"GENTLEMEN,

It appears to me, on reflection, that it is most prudent for me not to take advantage of your letter of the 10th instant, to express my sentiments on the great questions, in which Pa. has ever felt an interest. I cannot well answer that part of your letter, without alluding to the proceedings of the meeting, & taking notice of the *nomination*; which, as it strikes me, it will be wiser to omit, for the present. Should events favor my intention, I

polished subject. From the principles &
opinions then avowed, it is impossible that
it should ever depart—

You may expect to hear from me again,
not long after my arrival at Washington—

I must say you to give thanks to the
gentlemen of the committee my grateful thanks
for their kindness & regard; & to bid me
farewell, with true esteem

your friend & old servant.

Yours

Daniel Webster

Thos. Williams

Daniel Webster

PART OF A LETTER BY DANIEL WEBSTER ON HIS CANDIDACY FOR THE PRESIDENCY

Halfstone of original in possession of the Misses Williams, Philadelphia

WASH DC

shall be able to reply to your letter, sometime hence, without inconvenience or danger.

"It will give me pleasure, in that case, to avow my attachment to those principles, & that policy, which, as I think, have become incorporated with the vital interests of Pa. as well as with those of other States.—During my very agreeable visit at Pittsburg, I had not only the pleasure of making many acquaintances & enjoying much intercourse with its inhabitants, but an opportunity also of addressing them publicly on political subjects.—From the principles & opinions then avowed,¹ it is impossible that I should ever depart.

"You may expect to hear from me again, not long after my arrival at Washington.

"I must pray you to offer to the Gentlemen of the Committee my grateful thanks for their kindness & regard; & to believe me Gentlemen, with true esteem

"Your friend & ob. servant

"DANL WEBSTER"

"To Messrs Henry D. Sellers & Thos. Williams"

Mr. Webster, however, was not from the great West, and, judging from the fact that it was this vigorous section which had demanded and twice secured one of its own military heroes for the Presidency of the United States, and the fact that numerous meetings over the country were engaged in nominating another, although this time a Whig, military hero from the northern section of the great West, there was a possibility that the Senator from Massachusetts might not have occasion to address a second letter to Messrs. Williams and Sellers. Indeed, by December it became evident that Harrison men dominated even the anti-Masonic State Convention at Harrisburg, so much that Stevens, Denny, Craig and six other gave notice of withdrawal, and the convention proceeded to nominate Harrison and Granger. At this the *Harrisburg Telegraph* came out with: "*Antimasonry is extinct in Pennsylvania.*—It has received its death blow from the hands of its pretended friends. Governor Ritner, James Todd, and other leading supporters of his ad-

¹ It is a small, but interesting matter, that he first wrote "voiced" and, partially scratching it out, replaced it with "avowed."

ministration, offered up Antimasonry as a peace offering, to propitiate the Harrison Whigs." Stevens and others explained how it was; that the Masonic Whigs had held their convention at the same time and made a deal with the anti-Masonic Convention "usurpers" and both launched the Harrison "boom," as it would now be styled.¹ Stevens said they had stood together for national political anti-Masonry for "six toilsome years," and that they should, although in defeat, buckle on their armor anew. The Pittsburgh leaders at once took measures to secure another State anti-Mason Convention. As a preliminary, Mr. Stevens addressed a letter to General Harrison, attempting to commit the latter to a course such as the anti-Masons pursued against secret societies. The General, while avowing his personal disbelief in such organizations and his personal efforts to prevent the spread of secrecy principles, could not consent to make it a basis of a national party, just as many refuse to make the principle of Prohibition a dominant national party principle to-day. This was enough for Mr. Stevens, and also for Mr. Craig of Pittsburgh.²

Mr. Williams was evidently saving himself for the real fight, after the Harrisburg convention, for the *Gazette* of February 9th says: "We had supposed that the *original writing* editor of the Advocate had abandoned the editorial chair, and taken to the more toilsome labors of the legal profession," but one of Mr. Craig's doughtiest columns, following, showed that Mr. Williams had again pierced his armor. Details, however, have been given sufficiently to indicate Mr. Williams' power in the editorial and political field—the only purpose they are intended to serve.³ On February 25th the *Advocate* came out for General Harrison for President. Meanwhile the matter of the extension of the Baltimore and Ohio Railroad (at this date "Rail" was generally emphasized and separated from road") to Pittsburgh was receiving agitation from the annual annoying experience with the freezing of the canals, and late in April the Board of Trade appointed

¹ Evidently the Whigs moved their convention date back from January for this purpose.

² The Pittsburgh *Gazette* of December 29, 1835.

³ On February 24, 1836, it was announced by the *Advocate* that it had purchased the *Statesman*. *Gazette* of same date.

Mr. Williams one of five delegates to the Baltimore convention of May 2d, and the following day he was appointed by a big railroad meeting one of a committee to see what private subscription would be made by individuals in Pittsburgh toward this construction. It should be noted also that this meeting requested the City Councils to consider the expediency of either subscribing to stock in the railroad or guaranteeing interest on it—a movement fraught with tremendous consequences both to Mr. Williams and to Pittsburgh herself. It is to be remarked that the Councils were only asked to consider the “expediency” of it—a matter which indicated, possibly, difference of opinion as to the said “expediency.” Mr. Williams opposed and defeated it.¹

On May 1st he arrived in Baltimore, and on the next day he writes his wife: “I had the pleasure of a long interview * * * with Mr. Webster * * *. The Convention assembled this morning. It is very large & very respectable. I have been appointed on a Committee on which a large portion of the labor has been devolved & consequently have little time to appropriate to my letter.” On the 8th he again writes: “The Convention having adjourned on Tuesday evening at a late hour, I started on the following morning by the rail-road for Washington. Arrived there in the space of two and a half hours. I repaired forthwith to the Capitol, heard an interesting debate in the Senate, looked into the House of Reps. paid a visit to the Vice President where I met the Secretary of State, both remarkably polite—called on one of our Senators, Mr. Buchanan, & made my way on the following Thursday evening back to Baltimore.” This convention was purely a Maryland affair, intended to formulate a request to the Maryland Legislature, but also to allow the Wheeling and Pittsburgh interests to present their claims.²

¹ In a public letter in the *Pittsburgh Commercial* of September 7, 1871, Mr. Williams said: “The idea of building rail-roads with municipal bonds, once before defeated through my agency as far back as 1836, found, I think, its earliest and fullest development here.”

² The advertisements of the “Pioneer Fast Line” over the Pennsylvania Canal, Portage and Columbia Railroads appearing at this time are headed by a cut showing an engine on four wheels, two baggage and express cars, with four wheels each, and two coach-fashioned cars, also with four wheels each, but stating below that the present cars “are of a new and elegant construction,

Meanwhile the nomination of delegates to the constitutional convention was attracting attention and awakening not a little feeling. There was a desire in many quarters to keep it out of politics and among those who voiced this sentiment was Simon Snyder—not the ex-Governor—who wrote a letter to the *Gazette* on June 15th saying, *inter alia*: “There are respectable men in my party, who, throwing politics aside, possess the confidence of their fellow citizens,” and he suggests a large number: William Wilkins, Harmar Denny, A. W. Foster, Wm. Hays, David Shields, Wm. W. Irwin, C. Avery, Thomas Williams and twenty-six others—all among the very first citizens of the city and county of that day. This was prompted by the action of a combination convention of the 8th, which nominated what the *Gazette* delighted to call the “Tadpole Ticket,” because it was all head and tail and Walter Forward was the head. In commenting on this convention, a writer, signing himself “S,” in the *Gazette* of June 17th attacks its course, calling the Whigs who joined it the “cow-boys of the Whig party.” “The *genuine* and honorable Whigs were mainly solicitous about THOMAS WILLIAMS and ALEXANDER BRACKENRIDGE, yet these men were dropped and derided. * * * Who, *then* [after Darsie’s nomination] cared about the nomination of Williams for the Convention? The object, *after that*, was to give this bastard ticket—the offspring of illicit passions—as much of a Jackson look and dress as possible, to disguise its real paternity. Of what *use* would Thomas Williams be—a reserved man of books, nourishing in his seclusion high thoughts of political honor and consistency? He would be a dead weight upon their hands, and perhaps his conscience would force out from him some indiscreet public disclaimer of the sentiments contained in the ‘resolutions’ accompanying his nomination. What honest man, indeed, could forbear to make such a disclaimer?” There are indications that Mr. Williams was out of the city both at the time of the convention and at this date

running on 8 wheels and carrying 40 passengers—being the number limited to the boats.” The boats were “not equalled by any other on the rout.”

News of the successes of the new Texan republic against Mexico is attracting attention along about this time—May and June.

also, even if not all summer; a letter of August 2d from him indicates his arrival in Pittsburgh in phrases that suggest not only long absence, but a purpose to leave again soon. Evidently Mr. Williams did not intend to coalesce with the Van Burenites any more than he had with the anti-Masons the year before, and the result was that when October came the anti-Masons were successful and Mr. Williams saved his strength for the November Presidential contest.

On October 25th a great Harrison meeting was held and A. W. Marks, T. M. Howe and Thomas Williams were the committee on resolutions. He was also made one of the election committee and the fight was made so vigorously that Allegheny County went 548 for Harrison,—and Denny was sent as senatorial delegate to the constitutional convention instead of Judge Wilkins. Of course Pennsylvania went for Van Buren, but at such a marvelously reduced majority, namely, from over 50,000 in 1828, and even above 25,000 in 1832, to only 4,376 at this election, that the Whigs and anti-Masons were nearly as joyous as if they had themselves been the victors. This result was due, so far as Allegheny County was concerned, to the Whigs, like Thomas Williams, who refused the Van Buren coalition overtures, and stood solidly for the Whig national candidate.¹

During the month of December, 1836, the city election exhibited signs of reconciliation between the Whigs and anti-Masons, so much so that at a North Ward Whig meeting a ticket for Select and Common Councils was chosen, and on the following day an anti-Mason meeting adopted it, even though it included Mr. Williams' name for the Common Council—and in spite of the fact that Mr. Craig made strenuous efforts to remove Mr. Williams' name alone from the ticket, solely on the ground of his antagonism to anti-Masonic exclusiveness in the past.² This, however, was of little concern to Mr. Williams, who refused to make any expression to anti-Masons, who

¹ It is well to note a convention at Williamsport to secure a railroad from Philadelphia by way of Sunbury and that city to Erie in the winter of 1836-37.

² The *Gazette* of January 9, 1837, has a full column account of the details, and shows that Mr. Craig did get a section of the convention to recommend another name as a choice.

wished some, that would show a change of heart toward their policy.

Far more important events were coming. The stringency in the money market was alarming, and an effort was made to distribute the State's surplus revenue deposits more widely, and especially to place some in Pittsburgh banks. Efforts were made also to incorporate the Pittsburgh and Connellsville Railroad and another Pittsburgh road; also to seek the State's aid in surveying with a view to a rail line complementary to the canal. The Philadelphia people wanted the Sunbury and Erie road, too, and the Legislature had numerous appeals to it in January and February. Pittsburgh sent a delegation in behalf of its interests and Mr. Williams was among the number. He arrived in Harrisburg on January 28th (1837) and on February 2d he writes his wife: "I have been * * * so much employed in making acquaintances, as well as entertaining them when made, & in addition thereto in writing letters to my constituents, that I have scarcely enjoyed a leisure moment since my arrival. * * * We of the Pittsburgh delegation are very comfortably situated, in a large parlor of our own & generally surrounded by gentlemen from all quarters of the State & some of them, too, highly distinguished in former times. We are, I think, decidedly popular & very likely to achieve the object for which we were sent here, by obtaining liberal aid from the Commonwealth. Pittsburgh is very justly regarded here as not second in importance to Philadelphia herself & its representatives are therefore treated with correspondent consideration. * * * During the session I generally while my time away in the House very much to my amusement, but not much to my edification." "I have often felt," he continues in a confidential vein, such as would be used only to a wife and which should be so considered, "how easy a matter it would be to obtain distinction in such a body. I have as often felt how much I would have been gratified to reply to arguments, which seemed to me unanswered. I have paid a visit to the Governor and had some conversation with him. He is very sociable but speaks very broken English. * * * There is

an Anti-Slavery convention sitting here at present & in consequence thereof the town is full of Quakers." On the 5th he again writes: "I have now very strong reasons to believe that the object of our mission is pretty successfully accomplished & that a liberal appropriation will be made for it before the end of the session. We have spent our time agreeably upon the whole & been eminently successful in conciliating the good opinion of those by whom we are surrounded. It is true this has been effected at the expense of a little dissipation such as *late hours & wine*. The former has not, as you may readily suppose, agreed with me very well; the latter has been so prudently managed that I have been enabled to keep myself entirely out of the fire. I have long since thoroughly satisfied myself that I was not formed to bear the indulgences which are so usual in polite life & so prevalent here, and I am more and more convinced that comfort as well as health enjoin the strictest abstinence & regularity of life. My dissipation has therefore been confined to late hours, whose only ill effect is to beget late hours in the morning."¹ It should also be noted that another great question in which Pittsburgh was interested at this time was the effort in Congress to still further lower the tariff of 1833, which provided for a certain gradual reduction of duties, to which the Pennsylvania Legislature at the time had objected, but to which she finally agreed.

On May 11th Mr. Williams was among those who addressed a letter of welcome to Mr. Webster, who was then passing through the city. On May 20th the alarm over the suspension of specie payments by the banks over the country caused the Governor to make a proclamation, giving his reasons for not calling an extra session of the Legislature and urging all to sustain the honor of the State and be wise in the present crisis. These events and the nomination of an Assembly ticket by the anti-Masons caused the old Whigs to attempt a new move in the reorganization of the old National Republican party, as an anti-Administration party, which could unite all the forces opposed to Van Buren-

¹ Williams papers.

ism. They also proposed supporting the anti-Masonic Assembly ticket. Mr. Williams was one of the seven appointed to canvass ways and means. The result was that Mr. Williams swung the whole movement about into a thorough Whig reorganization and he was made the chairman of a "Whig executive committee" of ten persons. This was late in June, after two public meetings, and they pronounced for public education, tariff, internal improvements and restricting of executive prerogatives. They, however, worked vigorously for the "Anti-Van Buren ticket," as they preferred to call it, and in October gained the victory, so far as Allegheny County was concerned, and even made great gains in the State. The *Advocate* of October 19th grew enthusiastic: "Last year the Whigs and Anti-Masons had twenty-eight Representatives in the Assembly, now they have FORTY-FIVE!"¹ and it noted that with the Senate in possession of the Whigs there were great hopes for future success. The Whigs had heretofore not organized except for the campaign, but the *Advocate* proposed thorough permanent organization. Along in November Mr. Williams was mentioned as among those considered as good material for a Mayor, but he declined to even let his name be considered.² News of victories in New York and Massachusetts led to a call for a celebration by the "Anti-Van Buren Association," of which Dr. H. D. Sellers was president and Mr. Williams corresponding secretary.³ This meeting was held on the 13th of December and, after resolutions proposed by Mr. Williams, there were addresses by Foster, Irwin and Williams. Because of the great destitution and suffering among the poor, due to the financial depression of this great panic year, the meeting organized for the relief of the poor, as was proposed in the resolutions offered by Mr. Williams.

The city ticket was elected in January and he was elected to the Select Council. On May 18th the Mayor,

¹ The *Daily Advocate and Advertiser* at the Mercantile Library, Knoxville. It is to be noted that the publisher of the *Advocate*, on October 20th, advertised for files of his paper from October, 1835, to October, 1837. It is not known whether Mr. Williams had any relation with the *Advocate* at this time other than as an occasional contributor, and even the latter is only probable.

² The *Advocate* of November 25, 1837.

³ *Ibid.*, November 29th.

J. R. McClintock, was requested by a large number of citizens, Mr. Williams' name being third on the list, to call a citizens' meeting to memorialize City Councils on taking measures in regard to aid to the Baltimore and Ohio Railroad in its efforts to reach Pittsburgh and the Ohio. It is, of course, natural that, as a member of the Council, he should wish public expression on the measure, although on May 23d, when the meeting was held and memorialized Councils to aid by authorizing a million-dollar subscription, he was not present. Unfortunately no contemporary expression of his views on the matter is known. On May 30th, however, the publicly announced resignation of State Senator Cornelius Darragh threw into the political situation an entirely new element. No public reason for this resignation appears in the journals of the day, but some private correspondence indicates some domestic trials which may have contributed to it. These, however, did not affect public expression of regard for him and his excellent services, in the *Gazette* of that date. On June 6th both the anti-Masons and the "Loco Focos," or "Van Burenites," as the Whigs and anti-Masons preferred to call the Democrats, held their county convention at Pittsburgh. The anti-Masons put up Richard Biddle again for Congress, and, in the spirit of union that had been recently exhibited, Thomas Williams was nominated to fill the vacancy caused by Senator Darragh's resignation. "In the city of Pittsburgh," said the *Gazette* on June 7th, referring to the ticket, "it would be altogether unnecessary to say anything recommendatory of this gentleman, as a candidate for the office to which he is nominated; but to the electors out of the city, we will mention that he is a gentleman of considerable legal acquirements, of extensive literary attainments, of very steady and industrious habits, and in all respects well qualified to discharge the required duties in the Senate"—all of which was a great deal, in the light of the past, for the editor of the *Gazette* to express. To nominate the man who, more than any other man, was responsible for the Whigs of Pittsburgh preserving their existence and thriving, indicated how thoroughly the panic of '37 and the anti-Van Buren spirit

had welded the anti-Van Buren elements together.¹ It need only be noticed that the Van Buren rival candidate for Senator was Mayor J. R. McClintock.

Meanwhile, on June 5th, the Ritner Young Men's State Convention at Reading appointed on their committee of correspondence of nine members, three of which were to be from each of the following cities, Philadelphia, Harrisburg and Pittsburgh, Messrs. Foster, Williams and Irwin for the last-mentioned city. On June 15th the Whigs of Pittsburgh had a meeting and cordially adopted the "Anti-Van Buren ticket," as they called the anti-Mason nominations, and appointed a committee of fifty to devise ways and means. "Resolved," said they in their sixth resolution, "That we rejoice in the selection of Thomas Williams to fill the vacancy in the Senate, and trust his triumphant election will prove that however successful *no-partyism* may be in leading to the Mayoralty, it will be found the wrong road to Harrisburgh."² On the 20th the Pittsburgh *Times* noted that the *Mercury* was inclined to think the "Van-ite" ticket the more talented; the *Times* suggested that the senatorial candidates *stump* the district; it and the *Gazette* both thought it might be great fun for the "Anti-Van Burenites" and were quite certain the *Mercury* would not welcome that method of settling the question of talent. In the opposition desire to find something against Mr. Williams, it is amusing to see that they circulated the report that he was born in Connecticut, a matter which the *Gazette* took occasion to deny and the offense of which cannot be understood at this distance, unless it be a relic of the northern boundary war.

¹ The anti-Masonic Convention did not readily take to the nomination of Mr. Williams, as might naturally be expected, but after their well-known legal leader, H. M. Watts, Esq., refused to serve because of his desire to withdraw from public life, the convention, in the interest of harmony and the great fight that was proposed against the "Van Burenites," or "Loco Focos," as they persisted in dubbing them and their gubernatorial candidate, David R. Porter, they nominated Williams by a very good majority.

² The *Gazette* of June 18th. Any one who has carefully followed the past will appreciate a very significant squib in this issue, quoting a Democratic paper as follows: "We are requested by a member of the Antimasonic party to call on the editor of the *Gazette* for Mr. Williams' letter, written by him in answer to the letter of the Convention;" to which quotation Mr. Craig replies: "We should like to know what man pretending to be an Anti-Mason, has selected that vile sheet [the *American Manufacturer*] as the vehicle of his wishes." No doubt the letter would have made interesting reading for the opposition, as Mr. Williams undoubtedly made it clear that he was still a Whig, while appreciating the kindness of his anti-Masonic friends.

On the 13th of August a great celebration was held at Beale's Island to rejoice over the resumption of specie payments by the banks in accordance with Governor Ritner's proclamation. Judge H. M. Brackenridge and Mr. Williams addressed the meeting and resolutions were passed. He also addressed a great meeting in Allegheny on the 18th. His committee issued the call for the Ritner Young Men's State Convention which met at Pittsburgh on September 2d. Allegheny and Butler Counties had made repeated efforts to get Dr. McClintock into public debate with Williams, but the "Van Burenites" evaded it. It is doubtful if there had been a fiercer campaign in the history of Allegheny County. The *Advocate*—with which Mr. Williams now seemed to have no connection—published his oration of July 4, 1835, in full on that day in 1838 for comparison with an address by Dr. McClintock. On August 11th the Whig committee, headed by Judge H. M. Brackenridge, published an address to voters, in which they said, among many other things: "The reputation of Mr. Williams, as a scholar and eloquent public speaker, his high standing in private life as a man of sound judgment and sterling worth, leave no room to doubt that he will fully answer our expectations in the Senate of Pennsylvania."¹ Mr. Craig, in noting the fierce fight a certain element in Butler was making against Williams, admitted that he himself had not favored Williams because of his Whig positiveness, but that he was the honorably chosen candidate of the anti-Masonic Convention, and he gave him his cordial support. The result was that Allegheny County gave over 1,500 majority for Ritner, and gave Williams 5,828 to 4,650 for his rival—despite the Whig defection. Porter was elected Governor and the constitutional amendments adopted, with Allegheny County, however, having been successful in her entire Whig and anti-Mason ticket. Mr. Williams was therefore to have opportunity to see how easy it would be to win distinction in, not the Lower House, but even the hall of the Senate at Harrisburg, and with this event his career extends to far wider bounds than those of Pittsburgh and western Pennsylvania

¹ The *Advocate* of August 11, 1838.

and he becomes a character of interest, not only to the whole State but to even larger territory than that, as shall presently appear.

CHAPTER IX

"THE BUCK-SHOT WAR" AT HARRISBURG AND HIS SERVICES IN THE SENATE

1838

The fierceness of the great campaign of 1838 was by no means confined to Allegheny County, nor, for that matter, even to the State of Pennsylvania. The Jackson-Van Buren Democrats saw the rising tide of Whig successes over the country and fought with a desperation that led to more than one riotous demonstration. In Pennsylvania the situation was still further involved by the anti-Masonic element, led by Thaddeus Stevens, which had struggled so hard to make itself a national party for over a half-decade in vain. They had seen also in the rising Whig tide the necessity for practically uniting themselves to the Whig forces, or at least following its leadership, as the, to them, lesser of two evils. The small margin by which these united Ritner forces were apparently defeated roused both sides to the highest pitch of excitement and determination not to lose the victory because of fraud, which both sides at once loudly proclaimed. It must be remembered that the heat of this campaign was due to the financial element in it more than anything else. The currency was not on a sound basis; the old Bank had been somewhat of a safety-valve in the financial operations of the country, and various measures were now proposed in its stead. The suffering which was the result of the panic made all public ills come home with a personal force that aroused unusual fierceness of feeling. The political corruption which grew up under the internal improvement systems, together with the "spoils" principle and increased executive power which had flourished in both state and nation, was a leading element in the State campaign also. The constitu-

tional amendments were chiefly devoted to "the abridgment of the Executive patronage, and the withdrawal of all that immense power over the fortunes of individuals, which had been wielded by the Executive Magistrate for so many years."¹ No one of the present day can easily realize, for instance, what a power the canal board was at this time.

So when the votes were all cast, on October 9th, 1838, and it became evident that the contest was close, but liable to give the Democrats the Governor, to give the Whigs and anti-Masons the Senate, and leave the Lower House in doubt, it became evident that there was a very critical situation in Philadelphia in the Northern Liberties. Fraud was freely charged on both sides. It is even more difficult to get the exact facts at this date than it was then, and it was a hard problem enough then. Philadelphia County was divided into two several congressional districts of opposite politics, although it was a unit for electing the Legislature. An eminent lawyer, Charles J. Ingersoll, living in a Whig district there, was a Van Buren candidate for Congress. It so happened that this Third Congressional District, of which he was a resident, had judges equally divided in politics, so that their votes on the returns were a tie as to whether they were correct or not—and consequently no rejection of questioned returns could be secured by the Third District congressional judges acting alone and on these returns previous to those of lower offices. So when the same ballots were taken to the State House on the 12th of October for all the seventeen county judges to canvass votes on them for the legislative and other lower offices, these same ballots came before a body totally different in political construction, namely, with ten Democratic judges and only seven of the opposition. Now heretofore the custom had been to settle the congressional matter first and then canvass the lower offices, but the Democrats, with Mr. Ingersoll at their head, appeared before the judges at the State House and demanded the consideration of the lower offices first and the rejection of the North Philadelphia, or "Liberties," vote entirely on the basis of

¹ *Journal of the Senate*, 1838-39, p. 1,309.

fraud. The ten judges voted it so, and this rejection of the "Liberties" vote would not only give Mr. Ingersoll his seat in Congress, but would put certain Democrats in both Houses of the Legislature and determine the Democratic character of the Lower House. The Whig and anti-Mason judges determined that the matter should go before the Legislature as a contested election and quietly held a meeting and made out the returns for their territory and sent them to the Sheriff, who, being in sympathy with them, saw that they promptly got off to the Secretary of the Commonwealth, Thomas H. Burrowes, who was also State Chairman of the coalition forces—Whigs and anti-Masons. The ten judges also sent their returns later, but in an irregular manner, it was claimed, so that the first returns were treated as official, until the contest should be precipitated.

As soon as Secretary and Chairman Burrowes received this news he issued a circular "To the Friends of Joseph Ritner," on the 13th, in the *Harrisburg Chronicle*, in which he charged fraud and proposed immediate measures to contest the election, "peacefully, determinedly and thoroughly," but "with an honest resolution to submit to the result, whether it be favorable or unfavorable to our wishes." "LET US," he added in closing, "TREAT THE ELECTION OF THE NINTH INST. AS IF WE HAD NOT BEEN DEFEATED, AND IN THAT ATTITUDE ABIDE THE RESULT." This last sentence was at once construed by the Philadelphia Democrats as a purpose to use force or allow the Lower House to organize as two contesting Houses and let the Whig-anti-Masonic Senate choose which to recognize as the true House. Forthwith there were aroused the worst political passions and preparations were made to land a mob in Harrisburg on December 4th under the direction of a "Committee of Safety," as it was called, and overawe any attempt to change the returns from the decision of the ten Philadelphia election judges. As preparations proceeded there was every determination shown to seat those elected by the returns of the ten judges at hazard of bloodshed. It can be readily seen by the cool observer, situated at this distance, that the followers of both sides were convinced

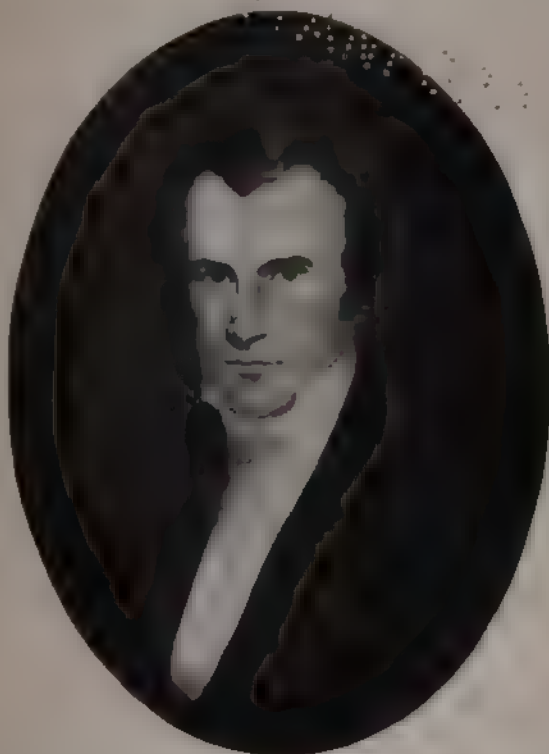
that civil machinery had broken down in Philadelphia or would break down in Harrisburg, and it is easy enough at this distance, also, to say what should have been done. The historical purpose, however, is accomplished in the tale of how it was done.

The Senate opened with Speaker Charles B. Penrose in the chair. The galleries were crowded to overflowing with a mob tense with excitement and threatening in looks and murmurs of discontent. Secretary of the Commonwealth Burrowes presented the returns, which included the Whig candidates in the Second Philadelphia District. "A movement was observed in the galleries," says the official account,¹ "and the tranquility of its chamber and the usual order and decorum of its [the Senate's] proceedings were disturbed by frequent interruptions and loud cries of approbation or disapprobation from the galleries. An attempt was made by the Speaker to repress these first symptoms of disturbance, but the effort was found to be unavailing. The excitement continued and increased in intensity until it found vent in loud and tumultuous cries, accompanied by the most violent stamping, and followed by a general rush of the multitude over the railing which separates the galleries from the lobbies and into the very bar of the Senate chamber itself. Amongst other exclamations were heard, as is testified by several of the by-standers, the most shocking threats against the persons of individual Senators—loud cries for blood, and other expressions equally atrocious and equally indicative of a common preparation for the wildest extremities which might become necessary to effect the common object."

This excitement was increased by the negative vote of 12 to 9 as to receiving any other returns from the Secretary, but proposing to organize and then treat the contest. The Speaker was then re-elected and, the Senate refusing to postpone the administration of the oath of office to the two Whigs from the Second District of Philadelphia, the usual oaths were taken by the following new Senators: Frederick Fraley of Philadelphia, James Hanna and William Wagner of its Second District—the

¹ Majority report of the committee of investigation in the *Journal of the Senate*, 1838-39, p. 1,301.





CHARLES BINGHAM PENROSE AT ABOUT THIRTY FIVE YEARS OF AGE
Halftone of a painting by Officer in possession of Dr. R. A. F. Penrose, Philadelphia

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disputed returns, Thomas S. Bell, John Strohm, John Killinger, John H. Ewing, William F. Coplan, Samuel Hays and Mr. Williams. "But," says the official account of the affair, "it was only on the decision of the Senate declaring Messrs. Hanna and Wagner to be entitled to their seats as Senators, on the return from the county of Philadelphia, that the bar of the Senate Chamber itself was invaded by the rioters. Until that time, they had confined themselves to the galleries, holding, however, frequent communication with Senators of their own party through the medium of certain individuals stationed evidently by preconcert in the lobbies for that purpose, and some of them, too, claiming to be members of the House of Representatives. But, on the decision referred to, and to the refusal of the Senate to hear Mr. Brown [Charles Brown who contested Mr. Wagner's place] who was not a member of that body, and who was entitled to contest the election in the manner indicated by law, the whole multitude precipitated itself into the lobbies and body of the Senate Chamber amidst deafening cries of 'Brown! Brown! Brown! hear him! hear him! You shall hear him! reconsider your vote! Let Hanna and Wagner resign!' For the purpose of appeasing the tumult, Mr. Brown was at length permitted to be heard, with the understanding that his influence would be exerted to tranquilize the crowd. His remarks, however, were rather calculated to aggravate than to allay the excitement; and to a question put by him, after administering new fuel to the flame, whether they were prepared 'to drench the floor of the Senate Chamber with the best blood of the Commonwealth,' the response was heard from all quarters 'we are,' 'we are;' 'we will have our rights or blood.' The Senate adjourned in confusion amid loud cries of 'put out the lights,' and other expressions of a like character, the whole chamber being already in possession of the mob, many of the Senators having been driven from their seats, and some of them having been obliged previously to consult their safety by a precipitate flight through the windows. Amongst those who escaped in this manner were the Speaker of that body, and even one or more of the Senators of the oppo-

site party, together with Mr. Stevens and Mr. Burrowes, the Secretary of the Commonwealth, who had entered the Chamber in the performance of his official duties. These gentlemen were known to be particularly obnoxious to the rioters, their names had been heard in the galleries in connection with the most diabolical threats, and it was only in obedience to the importunities of their friends, as well as the advice of certain of their political opponents, that they were induced to seek safety in flight." Mr. Williams, himself, being a new Senator and not having a part in the momentous decision on the Philadelphia Senators, had no occasion for fear and was not among those who left the room at that time in the evening, for, it should be stated, this was an evening session. It will be well also to remember that the preliminary facts such as have preceded this narrative were not known in full either to the public or the Senators and the public mind was inflamed by the suspicions that always lurk in the unknown.

It is not desirable in limited space to enter upon details of these December days at Harrisburg, except so far as they relate to Mr. Williams' career in the Senate. Suffice it to say, the mob took possession of the town; the Senate refused to meet until order was restored; the House was in the throes of double organization in the same room, each claiming recognition by the Senate; the Governor had ordered troops on to the capital and the mob were holding incendiary meetings. On the third day, namely, December 6th, Mr. Williams wrote his wife: "My little experience as a legislator has not been of a character to enamour me of the situation. I find that I have embarked upon a stormy sea & have been doomed to witness a state of things which has no parallel in the political annals of this Union. We are in the midst of a revolution. Scenes have been enacted in both wings of the Capitol within two days which have no example but in the Constituent Assembly of France in the worst & most violent days of their disastrous revolution. An irruption has been made into the Senate Chamber by a lawless and infuriated mob composed principally of the butchers of the Faubourgs of Philadelphia



(continued)

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 122. *Chlorophyll apz* (Chl *apz*)
 123. *Chlorophyll aqz* (Chl *aqz*)
 124. *Chlorophyll arz* (Chl *arz*)
 125. *Chlorophyll asz* (Chl *asz*)
 126. *Chlorophyll atz* (Chl *atz*)
 127. *Chlorophyll auz* (Chl *auz*)
 128. *Chlorophyll avz* (Chl *avz*)
 129. *Chlorophyll awz* (Chl *awz*)
 130. *Chlorophyll axz* (Chl *axz*)
 131. *Chlorophyll ayz* (Chl *ayz*)
 132. *Chlorophyll ayz* (Chl *ayz*)
 133.

[illegible]



THE CAPITOL AT HARRISBURG.

Showing Senate windows first floor, left end. Lithotype of a lithograph drawn from a daguerreotype by J. T. Williams in 1855, in possession of the Dauphin County Historical Society, Harrisburg.

ANALYSIS



& the determination has been openly proclaimed to coerce that body into an unconditional submission to their commands. The blood-hounds of the party have been baying at our very throats & demanding the sacrifice of several of the more obnoxious members of the party & in the confusion & uproar of the moment the Speaker himself was obliged to escape through the windows of the Capitol. The Whig and Anti-Masonic members of the Senate have under these circumstances declined meeting until this insurrectionary movement shall be put down, or sufficient force assembled here for our protection. Measures are now in train to assure this result, & I have no doubt will be successful. The leaders of the populace begin to ponder on the consequences of the course which they have so rashly pursued, & as their blood begins to cool & their reason to return, they are evidently shaken in their determination. They fear too that we are privately assembling troops for our protection & under that impression endeavored to obtain possession of the public arms on yesterday by seizing the Arsenal. But we were beforehand with them. We had taken the precaution to throw a reinforcement into the Arsenal & after an ineffectual attempt to bring us to terms, they abandoned the enterprise altogether.

"We have determined in the present state of things, if we are not permitted to assemble but under the dictation of an armed mob, to abandon the seat of Government & adjourn to Philadelphia or Pittsburgh, or to separate & go home. There is no shrinking in the Senate. It is composed of men who will do their duty at all hazards & under all circumstances. The House of Representatives is divided into two bodies. When our friends attempted to reassemble there yesterday, they found it in the possession of the mob & their Speaker was forcibly dragged from his seat & hurried out of the Hall. You will find an account of the whole proceedings in the newspapers & in an Address which we are about preparing to the People of Pennsylvania. We are at present in a state of excitement which has prevented us from organizing fully, or supplying ourselves with the newspapers. As soon as I am in possession of them I will endeavor to

keep you informed of all that is going on at Harrisburgh."

"What a beautiful spectacle to be presented by a republic!" said an editorial in the Philadelphia *Public Ledger* on December 7th. "What a beautiful commentary upon the assertion so often made in stump speeches, by unprincipled demagogues to unthinking crowds, and so often blazoned in capitals by editorial prostitutes in venal pages, that the Americans are the most enlightened people in the world! Are we surprised? No! We expected it all! We predicted it all! We knew that when the elements of disorder had been so frequently set in operation for local purposes, they would finally overspread the land, and terminate in some terrible commotion. When we saw Pennsylvania Hall in flames, surrounded by a mob yelling with demoniac delight over the wreck of natural, constitutional and statutory right, and crowds of sober citizens looking on with apparent indifference, while constituted authorities were wicked enough to favor, or too cowardly to oppose the outrage, we said that a fire was kindled which could not readily be extinguished, and which would certainly break out in more conspicuous places, and spread wider devastation."

While this editorial was being read on the streets of Philadelphia (December 7th) Major-General R. Patterson, of the First Division of the Pennsylvania militia, was issuing his first general orders for the assembling of troops at Broad and Market streets to proceed to the capital, "provided with thirteen rounds of buck-shot cartridges, and seventeen rounds of ball cartridges"—an order which, because it was said the first-named cartridges had three buck-shot in them, gave to these riots the title of "Buck-Shot War."¹ The early prospect of troops made possible the reassembling of the Senate with a quorum on the 8th, and Mr. Williams wrote his wife: "Our difficulties still remain unadjusted, & the end is as dark and uncertain as ever. The Senate declined meeting during the week in

¹ Hon. Charles Brown, years after, gave a public account of these disturbances, in which he was so conspicuous, and notes this fact. His collection of papers in reference to them are now in the Pennsylvania Historical Society. They charge Stevens and the anti-Masons as the cause of this disorder.

consequence of the continued presence of the mob who declared openly their determination to compel us into the admission of the Loco Foco members from the County of Philadelphia, & the recognition of the House constituted under their auspices. This morning, however, we determined to proceed in a body to the Capitol at all hazards. No attempt was made to interrupt us inasmuch as no exciting topic was started, & as our friends were present in considerable numbers for our protection. The Lower House however is still prevented from assembling & the mob continues to maintain undisputed sway at Harrisburgh. The civil authorities have refused to interfere & the Governor has according[ly] order[ed] a large detachment of volunteers from Philada. & Carlisle, who are expected this evening.¹ Warrants of arrest against the principal rioters on the charge of High Treason have been issued today by Judge Blythe & placed in the hands of the proper authorities & the disturbances will soon be quelled. The whole force of the attack seems to be directed against Messrs. Penrose, Stevens & Burrowes who are thus far the only individuals whose persons have been considered in danger. Mr. Penrose who is the Speaker of the Senate did not venture to appear in his seat this morning, having withdrawn to Carlisle for his personal safety. It is important that the difficulty should be arranged by Thursday as that is the day fixed for counting the votes for Governor, in the presence of both Houses. When or how it will end, it is impossible to predict. We must be sustained by the people or there is an end of our State Government the only question being whether the Law or the mob of Philada. shall prevail in the contest."

During this day the Senate was organized and Mr. Williams was made a member of the standing committees on accounts, judiciary and estates and escheats. On the 11th the Amendment returns were opened and they stood 113,971 for, and 112,759 against. The contest for Hanna's seat was begun also. "Our difficulties here," said Mr. Williams in a letter of this date, "remain

¹ He notes in pencil a postscript to this letter as follows: "200 of the troops ordered from Phila. have just arrived—2800 more are on the way."

still unsettled & apparently as far from adjustment as ever. We are in the midst of an armed force, brought here to preserve the public peace, & Harrisburgh, usually a quiet place, now resembles a camp. An immense concourse of people is gathered together from all quarters, & a degree of exasperation seems to prevail, by no means favorable to the restoration of the public tranquility. This state of things cannot endure long, & I begin to look to the contingency of an early adjournment as not altogether improbable. We cannot legislate to the public benefit under the present excitement, even though we prevail in the contest." It was on the 12th that the gubernatorial returns were opened and it was shown that Ritner had been defeated, 127,821 to 122,325, and on the 13th that a committee was chosen to report on which of the two Houses should be recognized, a report that was presented on the 15th. On the following day, Mr. Williams wrote: "The remainder of the troops sent here for our protection were withdrawn this morning, not because our difficulties are adjusted, but from the necessity of relieving the men themselves, who have generally been withdrawn from their business without due preparation & were becoming very much dissatisfied with their detention. They are, however, to remain organized & ready to march at an hour's warning & the artillery is to be placed at the head of the inclined plane for the purpose of facilitating their movements. Arrangements are also made for bringing troops from Carlisle & Chambersburgh, if they should be required, & a sufficient force will be stationed at the arsenal to guard the public arms. The great question which of the two Houses we shall recognize came before us yesterday & the debate was opened in a crowded house, & under great excitement. The decision will not take place before Tuesday or Wednesday, but if, as is highly probable, we shall determine on recognizing the Whig Branch, it will produce a tremendous sensation. I do not, however, apprehend any further violence, & was entirely satisfied that the troops should be permitted to withdraw."

On the 17th the Wagner and Bell contests were precipitated and Mr. Williams was made one of the select

committee in both contests, while on the 19th and 20th the report on the two Houses was made and there was a vote that showed 20 to 13 likely to favor the Whig House. On the 24th he writes: "Tomorrow, * * *, will be Christmas, but it brings no holiday to me. Our difficulties are still unsettled & however anxious we may be for the usual adjournment, there is no authority under the Constitution which will enable us to separate for more than three days. I might perhaps have obtained leave of absence, but in the present crisis the country requires my presence. A single vote may be decisive of the great question which has agitated us & convulsed the Commonwealth since the beginning of the Session. The subject has been under discussion in divers forms for several days & in consequence of the defection of several of our friends in the Whig House, which has reduced their number below the Constitutional quorum & rendered them incompetent for business purposes, several of our friends in the Senate have been staggered & the scales now hang doubtful. Under these circumstances, it becomes every true man to stand to his post, & I trust I, at least, shall never be found wanting in the performance of my duty. I was talking this evening with the member from ——— who is one of those who falter. His wife is here, not well, & anxious to get home & he desires therefore a temporary adjournment. I told him that his wife had made him a coward, & that he ought not to have brought her here, 'But,' said I, 'I have a wife composed of different material. If she were here, she would bid me stand by my post, as long as my physical powers would maintain me. * * * Mr. Ewing has just come over to my seat to say that there is a prospect of a compromise between the two Houses. * * * I have been unfortunately placed on two committees in cases of contested election & we are obliged by law to meet in each case every day & they promise to occupy us the whole winter. The half of Phila. County is present in the one case with all the ballot boxes which will probably have to be counted anew. It is therefore *all work* with me, & I am totally unable to attend to my Pittsburgh correspondence. My situation is no *sinecure*, I assure you, & to add

to its unpleasantness, we are obliged 'to work all day & find ourselves.' The State Treasurer who is a Loco Foco refuses to pay us until the disturbances are settled, with the hope perhaps of starving us out. If that be his game however, he will find us hard to subdue, even by putting us on short allowance."

On Christmas Day an effort was made to recognize the Whig House, but by a vote so close as 17 to 16 it was in vain, Williams' vote being cast with the minority. This, after some parliamentary skirmishing, was followed by a recognition of the other House by the same vote.¹ "The die is cast," wrote Williams the day following. "The long agony is over. The Senate yesterday by a vote of 17 to 16 after a hard fought battle of five hours determined in the face of their former resolution to recognize the House organized under Wm. H. Hopkins, on the ground that being now composed of a quorum of undisputed members by the defection of those of our friends, it was the true House within the meaning of the Constitution. This result was brought about by the desertion (I was going to say treachery) of six of our friends in the Senate. We battled hard against the decision & my tomahawk was lifted in the *melee* for the first time during the Senate. I felt a desire to speak on the question, but my courage faltered, until the last vote was about to be taken. I rose then with a tremulous voice, not being able to contain myself any longer & to the astonishment of house, lobby & galleries I poured forth a torrent of denunciation & invective, which nobody dreamed so mild a man as me capable of uttering. I had established by my silence & by my good-natured countenance a character for moderation which was entirely foreign to my true nature. I suppose I have lost it irrevocably now. The house was crowded to overflowing & such was the interest taken in the debate & such the silence that pervaded the galleries that you might have heard a whisper through the whole Chamber. I spoke twice & was so fortunate (whether deservedly or not) as 'to win golden

¹ *Journal of the Senate*, 1838-39, p. 148. Those who voted with Williams were Speaker Penrose, Wagner, Sterrett, Purviance, Pearson, Paul, Maclay, Killinger, Irvin, Hanna, Fraley (Phila.), Ewing, Cassatt, Bell (Huntingdon) and Barclay. Wagner resigned the next day.

opinions from all sorts of people.' They would not undertake anything like a general reply to the arguments of our side, but persisted in forcing the question on us until we were voted down. During the whole contest I am happy to say, the Western men stood firm as their own hills. Not a man in all our little phalanx consisting of nine Whig Senators from beyond the mountains ever flinched. They came up to the battle with the courage & discipline of a trained soldiery & fell fighting valiantly in behalf of the Constitution & the Laws."¹

Senator Williams saw no reason why the two branches of the Legislature should not have been organized in the usual orderly way, whatever had been done, and then have taken up the contests and abuses in the way provided by law. The compromise methods and clever maneuvers of the extremists of both sides had no part in his purview. He neither admired the exasperating finesse of Mr. Stevens and his followers nor the mobocracy of the extreme or "Equal Rights" wing of the Democrats, called, from the use of "Loco Foco" matches at the Tammany riot in 1835, "Loco Focos." This contest was indeed the natural consequence of a dominance of extremists on both sides. The anti-Masonic leaders like Stevens, high-minded and noble as they were in many of their ideas, by the adoption of fierce, proscriptive intolerance of secretism as the dominant principle of their political philosophy, were peculiarly exasperating in their methods. Theirs was the spirit of a war of extermination. It is doubtful if any one of even fairly judicial or historical mind can read Stevens' productions of this date on these themes without feeling that they were peculiarly calculated to exasperate rather than be constructive. Then, too, when their political philosophy was so largely based on the cornerstone of unverified suspicions of secret intrigue and hidden machinations, it is not strange that an element dominated by the "Loco Focos" should charge them also with peculiar facility at intrigue and refuse to trust them to honorable settlement through the processes of law—and that was precisely what did happen.

¹ This debate and its excitements undoubtedly led to the sudden death of Senator Cassatt, of Adams, from heart failure. His death was announced on the 26th.

Suspicion poisoned the whole body politic of Pennsylvania. The "Buck-Shot War" was the anti-Mason-LoCo Foco war. A Democratic "burlesque medley"—as its author, "Peleg Sturtevant," called it—was issued at Harrisburg early in 1839 under the title "The Buck-Shot War; or, *The Last Kick of Anti-Masonry*."¹ And so, indeed, did it prove, but, it may also be noted, it was accompanied by phenomena that looked much like the last gasps of "LoCo Foco-ism" and its mobocracy, and the rise of the Whigs to leadership.

Mr. Williams at once took a prominent place in the Senate proceedings, and on the 24th of January, 1839, was added to the standing committee on private claims. On the following day he wrote: "We are not yet entirely quieted at Harrisburgh. It is impossible indeed that we should be so, until we get rid of the noisy LoCo Focos, who have been seeking offices from the new Governor.² Such a time as we had at the inauguration, you can hardly imagine! Such noise & confusion prevailed throughout the densely crowded Hall of the House of Representatives that you would have supposed that all the dram-shops of Pennsylvania had disgorged their customers for the occasion! And we poor Senators, jammed up in the very center of that crowd like so many pickled herring in a barrel, without any possibility of escape, or even of locomotion! I pray that it may not be my fate to figure in such a ceremony again. Among the other applicants for office, we have been overridden by the LoCo Focos of Pittsburgh—and a goodly set they are! They complain bitterly, I am told, of my neglect, & threaten vengeance at the next fall elections—more especially because I thought proper to pay some attention to several *gentlemen* who were from Pittsburgh a few days ago. * * * I do not however stand much in awe of the LoCo Focos. I have defied their displeasure

¹ A copy may be seen at the Pennsylvania Historical Society. While its charges may have no foundation, it is very amusing reading.

² The new Governor, Mr. Porter, had an interesting reference to the revised Constitution in his message of January 15th: "This instrument," said he, "gives to popular suffrage the decision of many appointments heretofore vested in the executive, and changes the duration of the judicial tenure from that of good behavior to a term of years. It shortens the period of eligibility to the executive chair, and reduces the Senatorial term: enlarges the right of suffrage, and changes other provisions, all of which are important in the conduct of the government of the State."

heretofore & am prepared, if necessary, to meet them again before the People of Allegheny. You ask me to describe the doings of the Senate. The most important perhaps, more especially to *you* and *me* is the fact that I made a regular speech this afternoon—the first since my return. I believe it was quite as well received as the other of which you seem to be so proud.”¹

This “regular” speech to which he refers brought forth from the *United States Gazette* of Philadelphia of the 28th the following: “Mr. Williams who is decidedly one of the most able members and best speaker in the Senate, spoke at great length.”²

It was evident that the Senate was attracting the chief attention at Harrisburg, as can be seen in the press of that day. “We are very quiet here at present,” wrote Mr. Williams on February 3d, “though not exactly in the proper temper for doing business. There are few subjects that can pass the ordeal of the Senate without debate, while in the Lower House everything goes off without discussion. The consequence therefore is that the Senate, though a much smaller body, is now & that too for the first time, the great center of attraction. Our galleries are generally thronged with people & our lobbies crowded with the members of the other House & other privileged persons—the ladies being of that number. The temptation to speak is therefore very strong. I have however indulged in that way but two or three times since my return. It has indeed been my fortune to acquire so much more reputation than I have fairly deserved by the few feeble efforts which I have made, that I am almost afraid of dispelling the illusion by venturing too far.”³ He also made a speech on February 3d which was considered by many the best of his efforts.

On February 12th the Senate made Mr. Williams one of the committee to inquire into the cause of the late disturbances and the justification of the calling out of the militia. This was the beginning of the treatment of this

¹ He mentions in this letter the death of his old friend Macbeth.

² File in the Philadelphia Library, Juniper and Locust streets.

³ In a letter of February 10th (1839) he says: “We have no regular reporters here to disenchant the public by taking down all the crude & undigested remarks which fall from a speaker’s lips.”

subject by the Senate, which culminated in the great debate in committee of the whole over the payment of the troops—a debate participated in by Penrose, Brown, Parsons, Fraley, Pearson, Williams and others, in speeches that covered several days. Mr. Williams' speech occurred on the 21st of March (1839). He was especially severe on the so-called "Committee of Safety" or "Provisional Government."

"We have heard, Mr. Chairman," said he, "several high eulogiums pronounced in the course of this, as well as other debates, on the character and conduct of that famous committee to which I have just referred. For myself, I have not thought proper on any former occasion to speak of that committee. I did not choose to bestow on them any temporary elevation, or any factitious dignity by introducing them into any discussion here. There are, however, times and circumstances under which it may become necessary to deviate from a general course of policy like that which I have heretofore adopted on this subject. That time has, in my opinion, now arrived, and inasmuch as the Senator from the county [Philadelphia] has on more than one occasion thought proper to pronounce a lofty encomium on that committee, I shall feel myself bound to express my opinions in reply, and to express them fully and without reserve. I shall not be restrained by the consideration that I speak in the presence of an individual member of that committee, who, as has been more than once boasted on this floor, has been elevated by the people to the dignity of a Senator, and made a companion of mine here—officially, I beg it to be understood, and only officially.

"The Senator from the county has thought proper to compare these men to the heroes and sages of that glorious revolution by which our independence was achieved, and the cause in which they were embarked to the same great and glorious struggle. I have been always taught to respect the memories of those great men who have illustrated the annals of their country and done so much to deserve its gratitude. In justice therefore to them, I feel constrained by the comparison which that Senator has instituted and invited, to examine the pretensions of this committee to the distinction which has been thus assigned them.

"Who then were the members of this Committee of Safety? Of what material was it composed? Was it made up of men of high character acting under the generous impulse of a lofty patriotism, as has been so frequently asserted? I have the honor

of knowing very few of them personally, but on the faith of the information which I have been able to collect, I take it upon me to deny this claim in the face of the Senate, and in the face of the whole people of Pennsylvania, as false and unfounded in each and every particular. I venture to affirm that so far from being entitled to the panegyrics which have been lavished upon them, they were generally men of depraved morals, and of broken and desperate fortunes; men who had everything to gain and nothing to lose by revolution; such men, in short, as Cataline is represented by his historians to have raked from the sewers of ancient Rome in the most profligate and degenerate era of that republic. If there were any exceptions to this description, they were 'like angels' visits, few and far between.' The men of the revolution were of a different character, and acted upon a different impulse. *They* fought for their altars and their firesides, and pledged their private fortunes on the struggle. These men, without risk to private fortunes, were fighting only for 'the spoils,' and they have been rewarded; some with offices and others in the character of assistant door-keepers to the House of Representatives, by 'the eternal gratitude of the country,' to which the Senator from the county has declared them to be entitled, computed in money at the round sum of one dollar and a half a day! Patriots at one dollar and a half a day! Eternal gratitude reduced to arithmetical admeasurement! And these are the men who have been compared with the worthies of the Revolution!

"Sir, I could have borne almost anything but this; but when I hear such men as these compared with Washington and Hancock, and Adams;—when I hear the name of ——— gravely associated with that of the immortal Washington, I want language to express, as an American citizen, my deep abhorance and indignation, at the insults thus offered to the memories of the great patriots, and statesmen, and warriors of our revolution! It is too much for any man, possessing the feelings which ought to animate every American bosom, to hear patiently the declaration that these men acted under the same impulses of patriotism which directed and governed the armies of the revolution. Sir, they acted under no other impulses than such as could be purchased by rewards and rum. These men engaged in a struggle like that of our revolutionary forefathers! Our forefathers made resistance to parliamentary usurpation. Was this the fact with regard to those would-be patriots? No, sir; their resistance was to the laws of their own enactment, to those very principles which were then established by our ancestors, and entrusted for safe keeping, to their posterity. Aye, sir,

they were recreant to the principles for which the men of the revolution contended; they were traitors to the cause in which LaFayette bled on the plains of Brandywine, and Warren died on the field of Bunker Hill. Was it not enough, then, that the image of the immortal Washington, which looks down upon us from yonder wall, placed there, as it would seem, in order that his spirit might preside over our deliberations, should have been scandalized by the exhibition which we have witnessed here, and that the Senator from the county should have turned his back on that image, as he did upon the principles of the man whom it was intended to represent, when he addressed his fellow-citizens in the galleries? Was it not enough that this sacred hall, which has been provided for our reception, and dedicated to a high and holy purpose, should have been turned into a pandemonium, by the presence of an unhallowed mob? Was it not enough that the principles of the revolution had been disregarded, and the constitution and the laws trampled under foot? Was all this not profanation enough, that our ears must be habitually offended with the blasphemy which would place these men on a level with the Washingtons and Hancocks and Adamses of the revolution? Sir, this is too much for my patience. I flatter myself that I am blessed with as much equanimity, and as much philosophical forbearance as other men; but I cannot listen in silence, when such blasphemies as these are uttered of the father of our common country, and those who co-operated with him in the great work of independence.”¹

After dealing with various phases of the debate in the same vigorous manner, he turned his attention to the Senator from Philadelphia County. It is unfortunate that limited space allows only brief extracts from this beautiful and powerful discourse, which is worthy of the best days of even congressional debate.

“I shall be relieved, Mr. Chairman,” he proceeds, “from the necessity of dwelling upon these opinions of the Senator from the county, by the consideration that they are of a character so odious and abominable as to be unworthy of repetition in a town meeting, much less in the Senate of Pennsylvania. They are too perilous for frequent exhibition here, for it may be truly said of

¹ From a copy of a report of the speech in possession of the Pennsylvania Historical Society, in bound pamphlets, entitled “The Buck-Shot War,” p. 109.

This speech was resented by the Senator from Adams, and a reporter from the paper called the *Keystone* expanded that Senator's remarks into an address such as would never have been allowed in the Senate. Mr. Williams challenged this and secured an investigation, which revealed these facts.

The reports of the majority and minority on the armed force are most interesting and may be seen in the *Journal of the Senate* for 1838-39, beginning on pp. 1293 and 1357.

them, as has been remarked of the monster vice, in the beautiful language of the poet :

“ ‘Vice is a monster of such hideous mien,
That to be hated, needs but to be seen ;
But seen too oft, familiar with its face,
We first endure, then pity, then embrace.’

“Resistance to the laws, I hold to be treason against civil society. The first duty of the citizen is obedience to the laws, not as he may understand them, but as interpreted by those to whom that duty has been assigned by the constitution and the laws themselves. These principles are more particularly applicable to a government where the laws are enacted by the people themselves, because it would be a species of political suicide for the rulers themselves to turn their hands against the laws which have been enacted by their own representatives. I repeat that doctrines such as these are odious and inadmissible, and I again warn the Senator from the county that they are not to be repeated here. If the *laws* are to be dethroned, and the *mere will* of the people, whenever or wherever assembled, is to be set up in their stead, you may scatter your constitutions of parchment to the wind. Your mere paper securities will not avail you. They may be annihilated in a moment and your sheet anchor will be snapped in twain. If the Senator from the county will set up this Juggernaut—the popular will, he is likely to be among the first who will be crushed beneath its iron wheels. If he will cut away all our securities, and cast the reins loose upon the neck of the populace, if he will persist in evoking the demon of party passion, let him beware of the retribution which has fallen upon those who have tried the same experiment elsewhere. I do not agree with the Senator from the city, (Mr. Fraley) that he (from the county) is at all likely to be elevated to the throne of that despotism to which his doctrines would eventually conduct this government. On the contrary, he would be perhaps the first victim of the excitement which he had been so instrumental in producing. If he attempted to direct the storm, he would be the first to perish by its fury. He would most probably find himself in the condition of Actæon, pursued, overtaken, and finally devoured by his own hounds. I warn that Senator again to ponder well on the probable consequence of these opinions. A few more successful attempts to enforce them, would drive the people for protection into the arms of a monarchy. For my own part, if I am doomed to live under a government of *will*, I had rather it were the will of one man than of many ; rather a concentrated tyranny than the tryanny of a many headed mob.

I might then expect to receive some indemnity in national glory for the loss of national liberty. Then, Mr. Chairman, yonder eagle, the proud emblem of American sovereignty which now stoops above your head, might in some distant land and under the auspices of some distinguished chief, be heard screaming in triumph above the thunders of a battle field, or like the imperial eagles of the great Napoleon, soar to the top of another Mount Bernard, or stoop on the plains of another Austerlitz. Rather, far rather, to my country be such a destiny as this, than the despotism of a revolutionary tribunal, or the rule of a Philadelphia mob."¹

"The people," said he in a closing paragraph that was to prove prophetic, "may be deceived for the moment by such means as have been adopted in this case to mislead them, but when they come to decide understandingly on the evidence, I have no fear of the result. The Senator from the county has indulged in frequent and exulting references to these elections as an index of a general change throughout the country. Aye, there have indeed been changes within a very short period of time. If that Senator is disposed to look for the evidence of change let me turn his attention homeward, and ask him what has become of the majorities of thousands of which the party could once boast in his own district? They have dwindled down to almost nothing. What, I may also ask, has become of the *fifty-thousand* majority which the same party vaunted but a few years ago throughout this Commonwealth? It, too, has fallen off in the same proportion. The people are at last beginning to see the true state of affairs in this country. The light is breaking in upon them. They are beginning to rise under their oppression, and to speak with a degree of boldness to which they have been heretofore unused. They are soon about to reclaim their lost privileges. Already their ponderous battle axe is heard thundering against the door of the Executive palace at Washington. The bars and bolts and fastenings are giving away, and that stronghold of iniquity will soon be entered sword in hand, and that robber-band which has been so long plundering the Treasury of the Nation, be driven from the power which they have abused with the loud and deep execrations of an outraged and indignant people."

While the Buck-Shot War dominated the entire session of 1838-39, it was by no means to the exclusion of a great mass of most important legislation, the details of which cannot be entered upon in limited space. Nor were

¹ Ibid., p. 141.

Mr. Williams' activity and usefulness by any means confined to his public utterances; indeed, his greatest work was in the quiet and regular progress of legislation and the unusual amount of work on the most important committees. This was an important session in still further carrying out the spirit of the revised Constitution, increasing the popular control over a greater number of public offices. It was a very short time, also, before he became the sole spokesman of the judiciary committee, whose reports he almost invariably made. It is not, however, possible to pass over the important work which he forwarded for the seaboard transportation facilities for Pittsburgh in the direction of Baltimore. This latter city had, so early as 1826, felt the success of the Erie Canal and the "public works," as they were called, of Pennsylvania in drawing to New York and Philadelphia trade which they believed was naturally their own.¹ In consequence they explored the various methods of transportation and finally favored the rail system, and the recent adaptation of a locomotive engine to it, and on March 5, 1827, secured of the Maryland Legislature a charter of incorporation of the first railroad line in America, under title of "The Baltimore and Ohio [of course meaning the river] Rail Road." Before a year had passed the Pittsburgh people had taken measures to secure from the Legislature of their own State an act to permit this road to make an extension to that city, either by making its main line go to the Ohio at that point or providing a branch for the same purpose. The act was secured on February 28, 1828, but not without numerous and severe restrictions calculated to make the enterprise difficult, for many Pennsylvanians looked upon it as threatening the welfare of their own public works and their metropolis on the Delaware. It was distinctly limited to Pittsburgh and provided that the road must be completed in fifteen years, or by 1843. As the panic years had prevented the company from even reaching Cumberland by the time of this session of 1838-39, it was evident that the company should require more time, and Senator Williams, and his friends in the House, worked very hard

¹ "History of the Baltimore and Ohio Railroad," by "A Citizen of Baltimore," 1853, p. 9.

to secure an extension, and other aid as well. The debate was precipitated May 28th, when a bill was reported in the House, and on the following day the correspondent of the *United States Gazette* of Philadelphia wrote his paper: "There appears to be quite a diversity of opinion amongst the members with regard to the effects of the road upon the interests of our State and of her citizens in different parts of the State."¹ By the next month the fight was on in full force and it was only by accepting the most detailed and severe restrictions and protection for the trade of Philadelphia that a supplementary bill was passed extending the time four years, or until 1847,² thus postponing a struggle, which, in its various phases, for the control of the great traffic centering at Pittsburgh, has continued even down to our own time.³

The Legislature adjourned on June 25th, and the brilliant young Senator from Allegheny, as people of all parties, nearly, in Pittsburgh delighted to style him, had won a State reputation of high character, and become recognized by all the leading forces of the State as an independent mind whose integrity and power could only be counted on for lines of action which he himself believed to be right.⁴ These qualities, however, were not to have so much opportunity for exercise during the next session, for, although he was re-elected without trouble

¹ The *United States Gazette*, May 31, 1839.

² "Laws of Pennsylvania," 1838-39, p. 355. The date of the bill is June 20, 1839.

³ Even while these pages are being written the Wabash Railway system is celebrating the entry of its first train into Pittsburgh—the latest chapter in the story in which Senator Williams was then so earnestly figuring as a leader.

⁴ The *Philadelphia Herald*, speaking of this session (date of clipping unfortunately not given, but it is among the Williams papers), said: "Now the whole history of the last session of the Legislature, war and all, shows no more positive instance of fearlessness, both moral and physical, than was exhibited by Thomas Williams. He was the champion of Whig right and Whig principles, and defended their cause, and attacked their opponents with a stream of impassioned eloquence, steady, unwavering and pertinacious. His conduct throughout was entirely [Mutilated.—Author.] by any disposition to succumb to the threats and denunciations that were hurled at him, by his adversaries, whilst writhing under the lash of his unqualified language of reprehension. * * *—In the expression of his political creed and principles he was succinct, clear, bold and uncompromising. In regard to his duties as Senator, he was industrious and attentive, and as a member of the judiciary committee, his services were highly appreciated by his colleagues, and to him devolved a large portion of the labor of drafting bills of a legal character. * * *—Mr. Williams is a delightful speaker; his language is choice and forcible, and his classical allusions and applications are creditable to his education and to his taste. His manners are gentlemanly and pleasing, and evince much amiability of temperament. Of all our remembrances of the eventful session of 1838-39, there are none that cling to us with more pleasurable association than our companionship with Thomas Williams of Allegheny."

1839

■ RED-RAILROADS



and the United Whigs and anti-Masons both carried the Pittsburgh region and won the nomination of General Harrison at the anti-Masonic Convention and Whig National Convention at Harrisburg in December, the Whig and anti-Masonic members of the State Senate found themselves in the minority when they assembled on January 7, 1840. Mr. Williams did not arrive until the 10th, and on taking the oath of office found himself a member of the committee on corporations and that on estates and escheats. "Yesterday," he writes his wife on the 14th of January, "my term as a Senator was fixed by the lot. It was my fortune to draw Class No. 2, which entitles me to a seat for two years, if in my sovereign pleasure I shall think proper to hold it so long. On last evening I was persuaded by Mr. Penrose to pay a flying visit with him to Carlisle for the purpose of attending a public meeting. I was well received, & so outrageously clapped & called for at the meeting that I was obliged to make them a short speech in return. * * * I have thus far enjoyed an easy time of it when compared with the labors of last winter, & I intend to persevere as far as possible in doing nothing. The Loco Focos are in the majority & must of course take the labor & responsibility upon themselves." On the 20th he again writes: "We of the Whig and Anti-Masonic parties now feel that we are relieved from the heavy responsibilities of the last Session & we are determined to fold our arms, & leave the Loco Focos to work out their own salvation—without our assistance. We have occasionally a little broil with them, but we have altogether declined participating to any extent in the labors of the Senate—more particularly as we have been thrown off of nearly all of the important committees. * * * I have only indulged in one effort at speech-making since my arrival, & then under a head-ache and very much against my will. As soon as the effusion is published, I will send you a copy * * *."

Senator Williams was by no means idle, nor losing in any degree his reputation as an orator. "Today for instance," he wrote on the 24th of January, "Sunday though it be, I have been called on to write out a little

speech which I delivered in the Senate yesterday, & to prepare a protest for the morrow—which is not yet done. * * * I believe I forwarded you a little effusion on the obligation of Bank Charters, which I have had the satisfaction of seeing republished with high commendation in some of the Philadelphia papers.”¹ He describes his daily routine as follows: “I generally breakfast about 9 o’clock, & from that hour until the meeting of the Senate at 11, I am employed in consulting authorities, reading my Western papers & letters or suffering the annoyance of some *bore* who has a bill pending for which he wishes me to vote. The Senate generally continues in Session until 2 o’clock, when I take my dinner & perhaps a short nap & employ the balance of my time till supper in reading. After supper I visit the Capitol for the purpose of reading the Philadelphia & Washington papers, writing letters, sending documents to my constituents &c and retire about 10 o’clock to my boarding house, but whether to my room or not depends entirely on the company in which I may happen to fall. If it be good, I sit an hour or two abusing the Loco Focos & then find my way to my dormitory where I draw the table to my bed-side & read for another hour—a luxury * * *. Such is the synopsis of my every day life which certainly presents no very great attraction to the youth who is ambitious to figure in our Legislative Halls. To some however it is full of attractions, because it is a life of perfect leisure & unrestrained indulgence. To me it has no charms. I would rather a thousand fold bury myself in the retirement of the country & in the bosom of my own family, where I might play the part of a spectator & look on the moving drama of political life without excitement or concern; & I would withdraw at once into that obscurity which I love, if it were not for the confident expectation that the party to which I belong will come into power at the next fall election. In that event it is important that I should continue to occupy a prominent position. * * * I do not hesitate to say * * *

¹ From an extract in the *United States Gazette* it appears that he sarcastically assured the Loco Focos that their onslaught against bank charters was a principle which would logically lead them to an easier way to pay the public debt than getting the money, namely, to just “cut loose” from it—deny the obligation.

that the sooner we adjourn, the better for the Commonwealth. We are not likely to do any good & the only result which is likely to happen for the advantage of the public, is a thorough & irreconcilable quarrel among the Loco Focos. A portion of them is at war with the Governor already. They are the destructives & if they carry out their measures they will succeed in destroying to a miracle. I think, however, that with our assistance they will be defeated. I observe that the Advocate puffs me occasionally through its correspondents, but that neither of the Pittsburgh papers has condescended to notice my speech. It has been published everywhere this side of the mountains & I am inclined to think that there is some sinister design intended by their neglect. The Gazette has not even noticed that any such speech was ever delivered. I do not care much however, & shall not complain, but I think I can thward that design, if it really exists—This is of course *entre nous*.”¹

As the previous session was dominated by the various questions growing out of the disturbances, so in this session the financial questions prevailed, and especially the Loco Foco purpose to destroy the charter of the United States Bank, of Pennsylvania, and compel all the banks to resume specie payments or forfeit their charters. Mr. Williams made himself effective in opposition to the measures of the “destructives,” as he called them, and while there were some, like Senator Penrose, who appeared more frequently as a floor leader, it was evident that the Loco Focos were more apprehensive of an unsuspected thrust from Mr. Williams than from almost any one else. His intimates were Barclay, Penrose, Stevens and Pearson. An amusing incident occurred with some of these gentlemen which illustrates his well-known devotion to his wife. He had received a letter from her while in the Senate chamber and at once read it, “and,” said he, telling her of it, “after dinner [I] sat down to its perusal again when Messrs. Penrose and Stevens called on me to take a walk—on the banks of the Susquehanna.

¹ In his next letter he speaks of spending a Sunday afternoon with Senator Barclay in reading his old favorite, Milton.

I begged them to indulge me for a moment as I was just reading at my leisure a letter from my wife which I had only been able to hurry over without regularly perusing & considering during the business hours of the Senate. I had too much company, however, to derive much satisfaction from that reading which they denominated in parliamentary phrase 'the *second* reading & consideration'—which every resolution undergoes, before it can pass. The evening I spent at a card party at Mr. Elder's & on my return at about 11 o'clock, I retired to my room, threw myself in my arm chair, pulled out your epistle anew & was deeply engaged in its contents when who should enter my room again but Mr. Penrose. 'Ah!' said he, 'you have your letter on *third* reading, I perceive.' "

By Washington's Birthday the effects of the campaign began to be felt, and the Harrison convention which met there on that day added fuel to the flame. The convention had a big dinner at the hotel "& a glorious affair it was," he wrote. "The leading toasts which were prepared by me, were received with thunders of applause & followed each by a martial air from a fine black band which was in waiting. The number of guests could not have been less than 400. As soon as the regular toasts had been read, Stevens & I who were both afraid that we would be called upon to speak, stole quietly out of the room. We had scarcely escaped until the multitude began to shout for us both & as soon as they ascertained that we were gone, they sent down a messenger for the purpose of bringing us back. We however declined returning. At 7 o'clock in the evening the Convention met again at the Court House which was crowded with an immense concourse of spectators. As I had been appointed one of the Secretaries, I was obliged to attend, & had scarcely got seated until the multitude began to call for Stevens & Williams again as vociferously as ever. There was no resisting this, of course, & accordingly Mr. Stevens made a few remarks, & I followed him with equal brevity. After hearing a number of speeches, which were all well received, the Convention adjourned with Three times three for the Hero of Tippecanoe. I never have witnessed such an outburst of enthusiasm.

I have never seen the people so thoroughly awakened. The changes are said to be beyond all example. The [less] violent of the Loco Focos are deserting their standard & coming over to Harrison. * * * The Loco Focos who have the ball at their own feet begin to talk about adjourning on or before the first of April, to meet again in May."

On March 4th he speaks even more definitely of the subject. "We are doing about as much as usual, & that is just nothing at all. We are however doing essential injury to the public by keeping the Bank question so long open, & the people in so painful a state of suspense in relation to the action of the Legislature. I do not pretend to conjecture what the majority will do at last, but I have my fears that they will produce such an amount of suffering in all classes during the present year as has not been witnessed in this country since 1819. Money is already so scarce that one dollar is worth as much now as two were six months ago, & if the Bill which has passed the Senate shall become a law, the Banks will wind up & their circulation entirely disappear. It will, however, have a good effect. It will purge the country of that radical & destructive spirit which has so long lorded it over this land & blighted as with a mildew the best hopes of republican liberty. The spirit of regeneration is already abroad—the people are awakening from their long sleep—thousands of the Loco Focos are flying into our ranks, & meetings of the people are held as frequently as at the outset of the Revolution. Scarcely a day passes that I am not invited to attend meetings here & in the surrounding counties. It has been my fortune to become so much of a favorite among the people, that they are all anxious to see me and hear me to such a degree as to have made me really afraid to speak lest I should disappoint them. People who come from abroad express their surprise that I should be so young.¹ They expected to find me at least a man of forty from the reports which had been heard of me through the newspapers & elsewhere. Night before last I was sent for to attend a public meeting in town & as there was no escape I repaired to the

¹ He was not yet thirty-four at this time.

spot & addressed a most enthusiastic audience for more than an hour. Yesterday Mr. Penrose & I were waited on by committees from the lower part of the County to attend two public meetings on Saturday. * * * These are some of the signs of the times, & I may add to them the fact that the impression is almost universal as well here as at Washington that Harrison will be elected by acclamation."

Four days later he tells more of the campaign upon which he has entered. "I was down at the lower end of the County among the people, preaching the beauties of Harrisonism, & admonishing the Loco Focos to flee from the wrath to come. Messrs Penrose & myself went down on invitation to Middletown in the afternoon. * * * I expect I shall have to shoulder a knapsack during the summer campaign & turn itinerant Lecturer, as I have been seriously invited with some two or three others to take the tour of all the Northern Counties for the purpose of scattering light among the people * * *. If it were not so poor a business in the way of compensation, I think I could play missionary with a good deal of zest, but I have been under the necessity of giving *four* very good *existing* & one other *prospective* reason for declining the invitation." About the middle of March he was invited to a young men's Whig meeting in Philadelphia, but was unable to leave on account of the Bank Bill pending. "The Senate has just adjourned," he writes on March 23d, "& I have the floor for tomorrow morning on the Bank Bill which is the great question of the Session. I do not know that I shall say much on the subject, but I must say *something*. We have been engaged the whole of this day in the discussion & of course have not had time to take up the resolution of adjournment." On the 29th he says: "We have been engaged during the last few days in the discussion of another Bank Bill which will probably pass, & with it end of this vexed question for many years to come. It will be a measure of relief to the people, if it should be successful, but it will involve a complete abandonment on the part of the Loco Focos of all their radical & destructive notions on the subject of the currency." "We have disposed at last of the knotty



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subject of the Bank," he writes on April 2d, "& in such a way as nobody would have anticipated two months ago. The loud & violent denunciations of the Loco Focos have resulted in smoke, & the *conservative* principle has completely prevailed in a Legislature where nobody looked for anything but *destruction*. The Banks are allowed nearly a year to resume, & the proposition to authorize them in addition to issue small notes was only defeated in the Senate by my vote. It will however be revived, & I shall probably support it at the next time, for the sake of its political effect." He complains in a later letter that his pen fails to move as easily as usual: "The true secret consists perhaps in the circumstance that the routine of my public duties is such as to confine me to the dry details of business, & disable me from refreshing my imagination at those fountains of poetry & romance at which I was wont to drink so plentifully in my earlier years."

He again tells of the progress of the campaign in a letter of April 10th: "When I received your letter I had just returned from a visit in company with Mr. Penrose to the Borough of York, where he and I had the honor of addressing the most tremendous gathering of the people which has ever taken place in that County. The number was so great that scarcely *one-half* of them could get into the Court House, & the meeting continued until after midnight without the slightest symptom of impatience on the part of any individual of all the multitude by which we were surrounded. I occupied the stand myself during 2 hours & a quarter of that time & the only difficulty I experienced was to know when to quit.

"I had invitations from Chambersburgh & Lewis-town inviting me to attend meetings in those places on Tuesday & Wednesday, which I was of course compelled to decline and I am now urged to attend a great meeting which is to be held in Carlisle on Monday next. I have not yet promised positively to attend, but I see my name announced in their papers in company with that of *Mr. Clay* as one of the orators selected for the occasion. I do not think Mr. Clay will be present, but I suppose that I will be under the necessity of going myself, as I have by

some means become so popular that they will take no excuse. Indeed, my dear, if popularity were any compensation for the sacrifice of the society of my wife & family, I have had enough of it. A gentleman of Chester County (Dr. Brinton) who had just returned from Mifflin County & had been present at the great meeting where he said I was expected, observed last evening to Mr. Penrose & myself that in all that region of the State we were in everybody's mouths—that the Loco Focos had dropped Stevens & Burrowes who were the great bug-bears a short time ago & now talked of nobody but Penrose & Williams. So much for popularity." He notes in a later letter an invitation to speak before the Philadelphia Lyceum and plans of his Whig friends in Philadelphia to have him speak at a Harrison meeting.

On April 16th he writes: "For the last three or four days I have been worked like a galley slave, the Senate meeting in the afternoon & sitting until a very late hour. Yesterday we sat from three until 11 o'clock P. M. on the Improvement Bill. Today we were sitting on the same subject from half-past eight until half past two, & now (4 o'clock) we are about reassembling for the same purpose. It has been a hard battle indeed, & in consequence of the soreness of Mr. Penrose's throat, I have been obliged to carry the flag & do nearly all the speaking myself. The struggle, however is not yet at an end, & I look for nothing less than another sitting until midnight, when, under our resolution, we must adjourn."¹ That night he wrote: "We continued in session until the hour of 9 o'clock, when, to the astonishment of all of us our adjournment was arrested by a proclamation from the Governor, commanding us to reassemble in the morning for the purpose of passing a large improvement Bill which we had several times solemnly refused to do. Whether the Legislature will yield to this species of dictation, I cannot tell. For my own part I felt so indignant at the unwarrantable interference of the Governor, that

¹ On this date also a resolution of inquiry into the financial condition of the State was before the Senate which attracted much attention in Philadelphia. The papers of that day gave little space to legislative proceedings, so that commendation of a man, even in a line, was an event. The *United States Gazette* of May 18th said: "Mr. Williams supported the resolution with much ability & spoke at length against the policy of running the State further in debt at the present time, with providing means to deliver her from it."

CHIEFS OF ALLIANCE
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I rose in my place & denounced it in language as strong as it was possible for me to use. The Senate Chamber, galleries & all, was crowded with people, who all listened with the most intense interest while I pronounced the strongest philippic I have ever uttered. I know not when I have felt so much excited. My very blood boiled in my veins, & my nerves were strung to a degree of tension which I have seldom experienced. The natural consequence was that I made a much better speech than I have ever before perhaps delivered in the Senate, if I may be permitted to be a judge in my own case." The result was that they met, but adjourned until May 12th.

He had scarcely returned for the next assembling of the Legislature when he received an invitation from his old literary society at Dickinson College, the Union Philosophical, to give the annual address before them on July 8th—an invitation among many others that indicated his popularity as an orator for special occasions. On May 20th (1840) he writes: "I have a speech or two to make on the Improvement Bill, & I have been very industriously employed in ransacking public documents without number for the purpose of collecting all the necessary information in relation to our public works. If I don't succeed in convincing any body in reward for my labors, I will have the satisfaction at least of making the speech & sending it home to my constituents. I suppose however it will be too late to procure me a nomination for Congress. Talking about Congress, I have been informed since my arrival here of all the devices which have been employed to secure the nomination for Irwin, & among them a representation that I was ineligible because I was in the Senate. It seems to be admitted at home that I would be the choice of the town, but every attempt has been made to persuade my friends there that it would be better to take *Denny now* for the sake of preserving peace, & me the next time. Our members on the other hand assure me that I am the undoubted choice of the country, * * *. They had been informed in town that I was not a candidate & they wished to know whether I had a desire to run so that they might communicate it to their friends at home. I told

them that I would accept, if nominated, but that I would not solicit a nomination—* * * that I was willing to leave it to the free choice of the people.” Mr. Williams was not, however, as has been said before, a politician, and he refused to play the political game for himself, while those on the field played it with acumen and vigor. In consequence, Mr. Irwin received the congressional nomination, while Mr. Williams pressed his senatorial duties and forwarded the Whig cause in various places in central Pennsylvania within easy reach of the capital. He describes one other interesting experience, in a letter of June 6th (1840): “During the early part of the Session I happened to remark in a speech at a public meeting that there was no poetry about Van Buren, but that the whole atmosphere was redolent with music at the very mention of the name of Harrison. One of the Editors who was present seized upon the idea at once & suggested in the very next number of his paper the idea of compiling a volume of Harrison songs. The hint was adopted elsewhere & we have now volumes of that character without number, some of which have fallen into the hands of our merry members who meet almost every day at Wilson’s or here for the purpose of exercises in singing. They call them ‘anxious meetings’ & they generally manage to get two or three of the Loco Foco members to sing [them] over. And such singing! I do not speak in disparagement of the music, but you would think, if you heard them, that every peal would bring down the walls of the house about their ears.”

The Legislature adjourned on the 12th and on the 14th he writes: “I have been detained * * * in the preparation of an address to the people of Pennsylvania on behalf of the Harrison members of the Legislature, which I have been urged to finish before my departure.” He and Mr. Stevens left together for Washington, whence he writes on the 19th that he had heard some of the debates in the House on the Sub-treasury Bill. “We have,” said he, “better speakers in the Senate of Penna. than any I have heard here, & I do assure [you] that I would not feel the least difficulty in addressing the House immediately on the heels of any of them.” He said some



1852.

to be 'catered' but that I would
not be 'catered' that I was willing
to be 'catered' by the people. Mr. Wilson
was before, a politician, but
he has gone for him, and
with a union and vigor
in the Congress. He
has crossed his senator
in various places
in the course of the cap-
tivity, in a lot
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and a public meet-
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at once & so
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"THE ALMIGHTY LEVER"
Half-tone of a cartoon by Childs, in 1840, in the Congressional Library

www.oxfordjournals.org

of the Van Buren people were twitting him and asking him to explain how so bold, aggressive and able a State leader as he was should not have been sent to Congress by his district. The matter was of no moment to Mr. Williams and he was yet to find his greatest usefulness in his place in the Senate, where many believed his services were needer far more than in Congress, and where he was to be recognized as "the most able among our public men."¹

Mr. Williams was generally recognized as one of the very first Whig leaders in Pennsylvania, and consequently the country at large, and he entered with vigor into the great Harrison-Tyler campaign which swept Pennsylvania into the Harrison ranks and landed another western hero in the White House. This result also changed the control in the Legislature back into Whig and anti-Mason hands, and on the re-assembling of the Legislature in January, 1841, Mr. Williams was easily recognized as the ablest member of either Senate or House. His was the ability that saved itself for the vital struggles, the danger points, and especially those of far-reaching and permanent relations.

He has left an account of his journey to Harrisburg that presents a painful contrast with present-day railway luxury. "When we arrived at Greensburgh, to which point we had journeyed very comfortably in the coach, we were thrown into an open sled scarcely large enough to contain our baggage, & without a single seat to repose our limbs upon during the passage. The night was extremely cold & the prospect a fearful one indeed [January], but I was fortunate enough to procure a buffalo robe in which I invested myself for the trial. To keep it around me however, & to keep myself in my position at the same time was an operation of a nature so complicated as to keep me employed during the whole of that night and the following day. In that plight were we compelled to cross both the Laurel Hill & the Alle-

¹ Senator Chas. B. Penrose said of him on February 9, 1841, after referring to several years of the closest intimacy with Mr. Williams: "He stands high in this State and is now one of the most prominent as he is the most able among our public men." Letter to a friend in Washington. In a letter to Mr. Williams himself, March 17th following, he said: "As to yourself, I do not know how I can ever repay your kindness and friendship."

gheny Mountain exposed to the buffetings of a North Wester which blew the snow drift into my face, & went through all my coverings as though they had been no heavier than brown paper. I was almost tempted on several occasions to give up the attempt, but I was anxious to be in my place & doubtful of my ability to get on in the next stage & I was therefore constrained to persist until I had weathered all the difficulties of the way & once more found myself re-established in a close sleigh & at liberty to take an occasional nap, if the cold would permit me."¹ He was soon settled, with Messrs. Penrose and Pearson, in a private house, and deeply engaged in the work of the session.

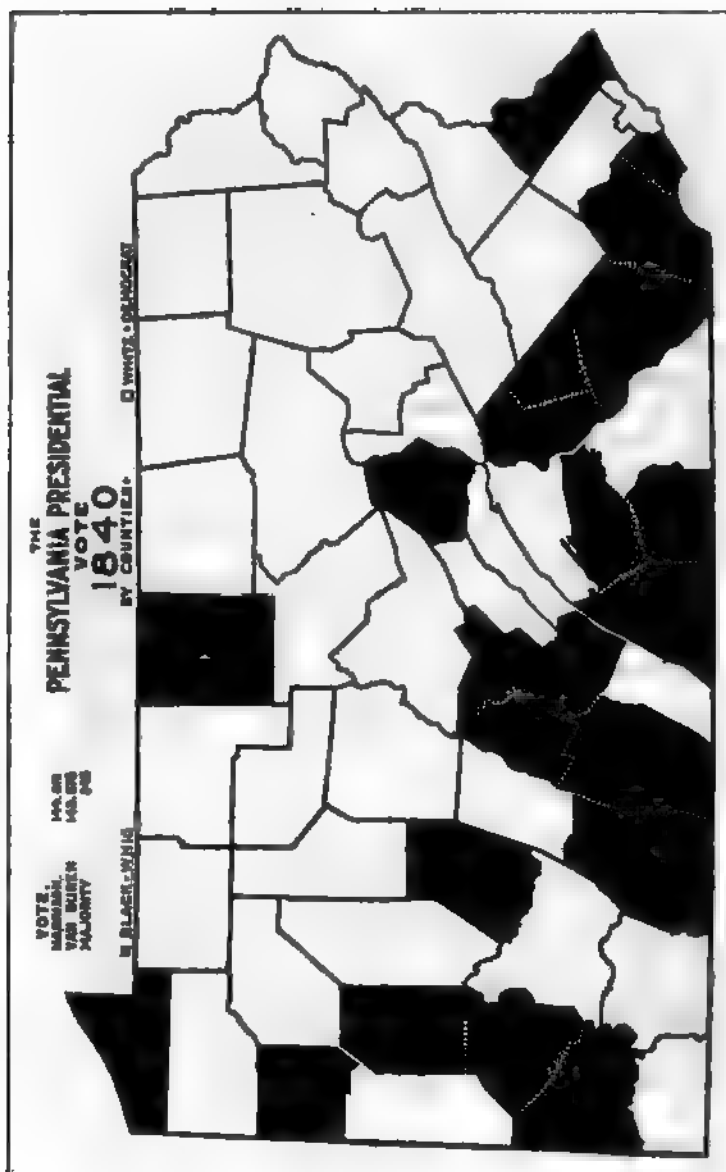
He was at once made a member of the judiciary, finance and library committees and chairman of that on estates and escheats. He was, however, usually, the spokesman of the judiciary committee and chairman after Pearson's departure.² In regard to the library, he said: "All Harrisburg seems to want the office [State Librarian] & I can neither appear on the streets or in the Capitol without being surrounded by a swarm of applicants." On the 17th of January he writes: "We have been engaged during the past week in the discussion of two separate series of Resolutions submitted by myself on the important topics of the Sub-Treasury & the Public Lands. Of course I have been obliged to defend them from all attacks." The *United States Gazette's* representative, usually so laconic, was aroused to say, on the 26th: "I do say that the speeches of Messrs. Penrose, Reed, Williams Spackman, Pearson and others will not suffer in comparison with those of most Senators in the United States Senate on the same question."³

As the time of inauguration of President Harrison approached, Senator Williams, as one of the leaders of the Whigs, took a personal interest in cabinet making—

¹ Letter of January 8, 1841, Williams papers.

² As chairman of the judiciary committee, he made, on April 9, 1841, a report on the Governor's power to draw money for attorney's fees that was an elaborate legal paper which attracted much attention. This was really a phase of the old political fight. It may be noted at this point that Mr. Williams served as Speaker of the Senate on March 9th.

³ The *United States Gazette* of January 28, 1841.



Prepared by the author from official returns

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though not for himself.¹ He wrote Mr. Webster on the subject and contemplated a visit to Washington. On February 2d he writes his wife: "If there is to be any cabinet making there, I should like to have a finger in the pie myself, & some of our friends think it wouldn't be amiss for me to go & take a peep at the mysteries." So, about the middle of the month, Mr. Ewing and he visited the national capital and were invited to breakfast with General Harrison. "The General is not, in my opinion," he wrote his wife on February 14th, "very remarkable either for his civility or for any great elegance of manners. Indeed he seemed to me to be a little stiff & reserved towards others—scarcely extending even his hand in some instances, & excusing himself occasionally by the fatigue to which he has been exposed in that way. He was not so however to me—on the contrary, when my name was mentioned, he took me by the hand with great cordiality, repeating 'Mr. Williams of' — 'The County of Allegheny'; I responded & he held my hand in his for several minutes as though I had been an old acquaintance. He was evidently familiar with my name, & I was afterwards informed by his old fellow soldier, Genl. Van Renssallaer, fully acquainted with my character & services during the campaign.

"We had the mortification however of discovering that the cabinet had been formed before we arrived, & that in consequence of the conflict of opinion in this State the President elect had felt compelled to pass us over entirely in order to avoid offending any party. He spoke however with great feeling of the attachment of the people of Penna. to himself, & expressed the assurance that they would not be forgotten in the distribution of the public honors. I must say upon the whole that my impressions in regard to him are highly favorable. He was entirely open & unreserved in his communications, & presented such an air of amiability & honesty that I could not help liking him, while I entertained the fear

¹ Indeed, we have his own words, so late as 1844, to that effect: "I seek no office, and have never sought any either from President or people."—Speech on the tariff in 1844, p. 27. Pamphlet among the Williams papers, reproduced as Chapter XI in this book. See the fuller statement following the above, which is a good description of his political course, not only before this date, but for his whole life.

that his good nature would be but too often imposed upon during his Administration. * * * I paid a visit to Mr. Clay & had a very interesting conversation with him * * *. The Genl. will leave on Monday for Virginia * * *. His cabinet is composed of Webster, Secy. of State—Ewing of Ohio, Secy. of Treasury—Bell of Tenn., Secy. of War—Badger of N. C. Secy. of Navy—Granger of N. Y., Post Master Genl. & Crittenden of Kentucky, Atty. Genl.—So, * * *, you know more now than the newspapers.”

Referring to the Harrison convention in March, at Harrisburg, he writes on the 13th of that month: “Our convention here has resulted in the most satisfactory manner, Mr. Stevens & all his party having been completely floored in the organization throughout the whole proceedings. His papers here and elsewhere had denounced the Whigs of the Senate because they opposed him & had pronounced the election of Delegates as a complete triumph over us, but when they came together & he himself among the rest, he found himself not merely defeated by an overwhelming majority, but even Mr. Ewing who accompanied me to Washington & bore the despatches there in favor of Penrose, singled out & elected the President of the Convention by an almost unanimous vote. So much therefore for the unpopularity of my course which has been sustained by the public opinion of the Commonwealth.”

Mr. Penrose resigned as Speaker that same day, to go to Washington to become Solicitor of the Treasury, and left with Mr. Williams the resignation of his place as Senator to be presented at the proper time.¹ On

¹ Mr. Penrose writes him as follows on March 17th: “The Proclamation of the President convening an extra Session of Congress will be published tomorrow and you will have it before this reaches you. The time fixed is the 31st of May. Mr. Webster thinks that it would *be very important* to secure from the legislatures of important States a strong expression of sentiment in favor of this extra Session, and for the purpose of *providing revenue and so regulating commerce and the currency* that prosperity may be *ultimately* restored, and the institutions of the country sustained. If you will immediately prepare and procure at an early day the passage of such resolutions *it will be very acceptable to the administration*. Mr. W— suggested to have a concurrence in a caucus, and the importance of such resolutions then strongly impressed upon our friends. Let me urge you without delay to have this done. The public mind must be prepared for such measures as will be essential to bring back our lost prosperity. It will be unnecessary to name a National Bank *eo nomine* but I suggest that it would be expedient to instruct our Senators to go for the *measures* for the purpose above indicated. It is regarded here too as of much importance that the subtreasury resolutions which now slumber so discredibly

April 2d (1841) Mr. Penrose wrote Williams as follows: "We are now in the deepest anxiety on account of the indisposition of the President who is laboring under a severe indisposition with which he was attacked on last Saturday. This morning he was so decidedly better that I was then in hopes that all danger had passed, but about midday he was not so well and this afternoon 6 o'clock P. M. I am informed in answer to a note of enquiry which I just now sent to the White House that although better than he was last evening he is not so well as he was this morning. I have great fears for the result. It is my earnest prayer that a merciful Providence will spare him for his country. The welfare of the Nation very much depends on his life. We are however in His hands and while we are daily taught how frail and vain are all our temporal hopes we must humble ourselves to a patient dependence on His will.

* * * * *

"At one time I had strong hopes that we should have you here. I pressed your appointment as Comptroller when I found that this office was to go to Pennsylvania and Mr. Ewing seemed disposed to confer it upon you. Shortly after I discovered that Mr. Forward had expressed a willingness to accept the office and it has been tendered to him.

"I look with great interest to your action at Harrisburgh. I trust you may be enabled so to act that you may bring our great State out of the mighty difficulties which surround you. If you could disencumber her from party influence how readily might this be effected."¹

On April 5th the President's death was officially announced to the Legislature as having taken place the day before and the two Houses at once appointed conference committees to take appropriate action. These reported on the following day, among other things, "that an eulogy on the character and public services of William Henry Harrison be pronounced on Saturday the 17th inst. at noon, in the Hall of the House of Representatives, by Thomas Williams of the Senate," and upon

to our friends in the house should be passed as soon as possible. Can't you rouse our friends there?"

¹ Williams papers.

the day designated all public officers and the Senate met in the Lower House and listened to the following notable oration on the first of the American Presidents to die while in office.¹

¹ This oration constitutes the next chapter.

A letter from Mr. Penrose, dated at Washington, April 11, 1841, says, among other things: "The day after the inauguration the President entered a book store on Pennsylvania avenue and purchased a bible and prayer-book. He remarked that he had been surprised to find that there was no bible at the President's house, that it ought to constitute a part of the furniture of the house. It was his intention, he said, to have the best copy he could procure purchased and paid for out of the next congressional appropriation for furniture for the President's house; and that he should write in it 'To the President of the United States from the people.'" Also: "the General said during his last illness that he regretted that he had not before become a communicating member of the church; it was his intention to have done so as he informed the pastor of the episcopal church with which he intended to connect himself on the Sabbath which succeeded his death. He had been deterred from taking this step for [four?] years by the apprehension that his example might induce others to do so from unworthy motives, for political effect which he supposed would be attributed to him."

CHAPTER X

HIS NOTABLE EULOGY ON PRESIDENT WILLIAM HENRY HARRISON BEFORE THE LEGISLATURE OF PENNSYLVANIA ON APRIL 17, 1841¹

Senators and Representatives :

It is no common task which your partiality has assigned me. It is no common event which has assembled us together. To me belongs not now the grateful theme which stirs the public pulse on some high festival commemorative of the glorious past. No joyous ceremonial—no inaugural fete is this, which has this day gathered the representative majesty of the people of Pennsylvania within this hall. The emblems of woe are around us; a nation is clad in the habiliments of mourning, and the voice of wailing and lamentation is heard upon every breeze. The head of this great Republic, the elect of this mighty people, the idol of a nation's hopes, called so recently from his retirement to preside over the destinies of this glorious sisterhood of States—the soldier, the statesman, the sage, the patriot HARRISON is no more! Yes! the illustrious man, who but yesterday, on the steps of the Federal Capitol, under the shadow of our national banner, and in the presence of the assembled thousands who were congregated together from the remotest extremities of this broad land, to witness the sublime spectacle, pronounced the solemn vow of fealty to the Constitution, and invoked the Ruler of the Universe to attest the sincerity of the pledge which he then gave, has already laid down the high commission with which he was invested, and with it all the symbols of command, and yielding to the summons of Omnipotence with the same cheerful submission with which he has ever obeyed the calls of duty here, has been translated from the scenes of his responsibilities on earth, to the scene of a higher responsibility in heaven. The silver cord has been loosed; the tongue which was then eloquent of truth is now mute forever, even while its last echoes are yet lingering upon the ear; the eye which then kindled with the inspirations of an exalted patriot-

¹ From a copy of the Pittsburgh reprint, by W. S. Haven. It was published by the Legislature and appears in the Appendix to the *Senate Journal* of 1841. Copies among the Williams papers.

ism, is already sealed in eternal sleep; and the heart which then throbbed with the deepest anxiety for a nation's welfare is forever at rest. The pageantry and the procession—the nodding plume—the gallant array—the braying of the trumpet, and the trampling of the horse, have passed away; the high hope, the animated pulse is gone; the curtain of death has descended over the spirit-stirring scene; the idol of that day—"the cynosure of all eyes"—"the observed of all observers"—is already gathered to his fathers; and those who swelled his triumphal cavalcade, as it moved in the direction of the capitol, have, in one short month, been again summoned to follow in silence and sadness, and with downcast eyes, the sable hearse which conveyed his mortal remains to "the house appointed for all the living." What a change is here! How sudden, how abrupt the transition from sunlight to gloom! Who is insensible to its influence? Who hath not realized, in this melancholy reverse, the nothingness of all human pomp—the stern and startling admonition which it conveys? Who hath not felt the warm current of life turned back-ward to its source, by the earthquake shock which has suspended the general pulse of the nation, and hushed even the tempest of party into repose? Who hath not been subdued by the common calamity which has made us feel that we are men, and has at the same time reminded us that we are the children of a common country, into a momentary forgetfulness that he had ever been a party-man? Who does not feel that such a loss, at such a time, and under such circumstances, is indeed a national bereavement? Who does not mourn over it as a national calamity? The venerable man whose loss we so deeply deplore, though nominated by a party, became by the choice of the nation, and under the forms of our Constitution, the President of the people. It is not too much to say of him, that he possessed the confidence of that people in a higher degree perhaps than any individual living. It is equally true, that to his long experience, his tried integrity, and his exalted patriotism, they looked for deliverance from the many embarrassments which now surround them. They had the assurance at least in his past life, of inflexible honesty and upright intention. Whether his administration of the affairs of this great nation would have realized in all respects the high wrought expectations of those who had garnered up their hopes in him, is not now the question. It is enough that the people trusted him. The loss of such a man in any great national extremity, and before he has enjoyed the opportunity of testing his adaptation to the wishes and wants of those who have conferred upon him their highest honors, is always a public calamity.

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But it is not merely as the head of this great nation that we are assembled to pay our solemn tribute of affection to the memory of the distinguished dead. He has other, and earlier, and perhaps higher titles to our regard. The last and greatest of your gifts, was not merely a payment in advance for services thereafter to be rendered. It was richly earned, before it was bestowed. It was but the tardy acknowledgment of a long arrears of toils and sacrifices, the crowning reward of a protracted and laborious life, expended in the service of the country, in the protection of its infant settlements, and in the advancement not more of its happiness than its renown. The name of HARRISON has long adorned the brightest pages of our country's history, and those who live beyond the mountains will bear me witness when I say, that there at least, for more than five and twenty years, it has equally been embalmed in story, and immortalized in song. The individual who addresses you is old enough to remember the time when that name was as familiar to the ear of childhood as a nursery tale, for often has he heard the western mother hush her infant with the ballad of the Prophet's fall, or tell her listening boys that their father or their brethren were out under the gallant HARRISON on the perilous frontier. Many years have elapsed since it was publicly affirmed of him by one who has enjoyed a large share of the popular honors—a gallant soldier himself, who bears upon his body, in numerous scars, the honorable and enduring testimonials of his own devotion to the country—that “the history of the West was *his* history.” And what a history is that! Surely no pen of ancient chronicle has ever told, no fiction of the poet ever framed a tale, which will compare in interest with that which records the early struggles of the founders and defenders of that mighty empire, which has sprung up like enchantment upon our western border, and is still stretching its ample wing, and pouring its living tides in the direction of the setting sun. To have been associated with those struggles so intimately as to have become a part and parcel of such a history, were distinction enough to have secured to any man a deathless name. No conquerer ever reposed in a prouder mausoleum than this; no loftier monument has ever risen, either at the bidding of ambition, or under the affectionate hands of public gratitude, to the founder of a dynasty, or the defender of a throne. The pyramids of the Egyptian kings themselves shall moulder into dust, before the early records of that fair and happy realm, or the names of those gallant spirits who led their forefathers through the wilderness, shall perish from the recollection of that mighty people who are now diffusing themselves in myriads over its surface, and are destined one

day to be multitudinous as the stars of heaven. The history of that wondrous realm is now the history of the broadest and fairest portion of our Union. And so, too, is the whole life of its defender, HARRISON. The last few years have given to its tales of stirring incident and startling peril, an interest of a still broader and more diffusive character, and twined its thrilling and romantic narrative of border achievement more intimately than ever with the lasting glories of our common land. But they have only brought into bolder relief the rich memorials of a most eventful life, which lie scattered in bountiful profusion through many a page of that narrative. A large portion of that life has been already written, and the Muse of History now stands ready to fling her rainbow tints over its illuminated close. She has already told how the warrior and poet has lived: she will now tell how the patriot could die. I will not encroach on her province. Mine is the humbler task of delineating, with a hurried hand, the mere outline of a long and eventful career, and of pointing out a few of those elevations, swelling most boldly above the level of ordinary life, on whose summits the sunlight of renown will linger, long after the shadows of many generations shall have settled upon the plain. Bear with me, then, while I endeavor to perform this task, and suffer me also to gather, as we proceed, from the richly enamelled field which lies in shade, an occasional offering for the fresh grave of the departed chief.

Half a century ago, a stripling boy of the tender age of eighteen years arrived in the town where we are now assembled, bearing the commission of an Ensign in the armies of the United States, and on his way to join the gallant but ill-fated St. Clair on the North-western frontier. There are those lingering amongst us yet, who remember the fragile frame, but manly port of that chivalrous boy, who, nursed in the lap of affluence and elegant refinement, had disdained the inglorious remonstrances of his elders, and forsaking friends, and family, and all the luxurious ease and indolence of home, had taken upon himself the soldier's vow, and dedicated his life to the dangerous service on which he was now about to enter. That boy was no other than WILLIAM HENRY HARRISON, the subject of the present sketch, the future Commander of our armies, and the future President of the United States. The scion of a noble stock, pointing for his pedigree to the imperishable cluster of our independence—a broader and a prouder patent than the hand of a crowned monarch ever gave—and numbering amongst his kindred many of the most distinguished men of the Revolution, but without any other patrimony than his own good sword,

a finished education, and an immortal name, he had just abandoned the study of a peaceful profession, for which he had been carefully prepared, and was now on his way to seek his fortune in the western wilderness. The ardor and determination which animated the boy may be inferred from an anecdote which is related of him by one of his earliest biographers. He had just been dispatched by his father to the city of Philadelphia, for the purpose of pursuing his studies under the direction of the best medical professors of the day, and had been placed by him under the immediate guardianship of the celebrated Robert Morris. The death of that parent, which occurred whilst he was on his journey, and was soon after followed by the information that his estate had been greatly dilapidated by his services and sacrifices in the war of the Revolution, left him almost entirely without resource. But he was not without friends. The son of Benjamin Harrison could not want a friend where the compatriots of his father were around him. A lucrative office in the Department of State was tendered to him by his kinsman Edmund Randolph, then acting Secretary, which he declined. His high spirit would not stoop to eat the bread of dependence; his ambition was awakened, and his thoughts were now turned in another direction. He repaired at once to the great chief who had been the friend of his father, and was now at the head of the government, and solicited a commission in the North-western army. General Washington hesitated, referred to his extreme youth, and drew an animated picture of the hardships and dangers of the service which he was seeking. The ardor of the boy was not to be repressed; the commission was promised. The fact was, however, immediately communicated by Washington himself, to Robert Morris, and no sooner known to the latter, than a messenger was dispatched at once in pursuit of his wayward ward, with an intimation that he desired to see him. Young HARRISON suspecting the object, flew immediately to the War Office, took out his commission, subscribed the necessary oaths, and then appeared before his guardian, when he was assured that constraint and remonstrance would be alike unavailing. He was now the soldier of the Republic, and it was with that commission in his pocket that he had set out to join the North-western army.

The hazards of that enterprise can scarcely be appreciated at the present day. At the period of which I speak, the whole of that vast region west of the Ohio, which now composes the great states of Ohio, Indiana, Illinois, Missouri and Michigan, and comprises within its limits a population equal to that of the old thirteen during the war of the Revolution, was nothing

but one vast, unbroken, howling wilderness, tenanted only by wild beasts or still wilder men, and sleeping in the universal silence which had brooded over it since the creation. From Pittsburgh west, far, far beyond the mountain cradle of "the father of waters"—beyond even the sources of Missouri's mighty flood—throughout an untravelled and almost illimitable wild, over which scarce anything living, save the wing of the adventurous eagle, had ever swept—all was original, undisturbed, magnificent wilderness—the domain of nature—the dwelling place of the savage. The beautiful Ohio, whose bosom is now freighted with the commerce of thirteen states, whose waters are now plowed by a thousand animated keels instinct with elemental life, and whose margin is now dotted with hamlets and towns and cities, then travelled onward in its long and silent journey, gathering the redundant tribute of its thousand rills, with no sound, no life to disturb its glassy repose, save the splash of the occasional canoe which darted across its surface, the ripple of the solitary pirogue which dropped lazily down its current—or mayhap the report of the savage rifle from some sheltered covert on its banks, which awoke its unaccustomed echoes, startled the wild fowl screaming from its bosom, and told the fate of some hapless adventurer, who had embarked his fortunes on its smooth but treacherous tide. The whole frontier extending eastward even into our own state, was then the theatre of border war. Already one gallant army had perished in the vain attempt to hunt the ruthless red man back into his forest haunts. The savage tribes, animated by their partial success, maddened by the encroachments of the white man, and stimulated into unusual ferocity by the largesses of Great Britain, were unloosed from their forests, and pouring like wolves upon the settlements, while the thirsty tomahawk and the unsparing scalping knife were drinking deeply of the blood of our people. The whole frontier was in flames. At the dead hour of midnight the repose of the settler was broken by the appalling war-whoop, and if he ventured from home during the day, it was most probably to find on his return, that his dwelling was in ashes, and his hearth-stone red with the blood of his children.

It was under such circumstances that WILLIAM HENRY HARRISON first volunteered his life in defense of the country. It was on such a field, where so few laurels were to be gathered—it was on such a service, from which the stoutest soldier might well have shrunk, that this gallant boy had just adventured. A second army had been dispatched to chastise the insolence of the savage, under General St. Clair, and it was

for the purpose of enrolling himself under the banners of that commander, that he was now hastening with all the ardor of a bridegroom in the direction of the Ohio. It was not, however, his fortune to reach the place of his destination until a few days after the disastrous defeat which that officer had sustained near the Miami Villages. Instead, therefore, of a well appointed army, full of hope, and panting for the conflict, he was doomed to meet the shattered, bleeding and retreating remnant of a gallant host, which had just left the bones of many a brave companion to bleach unburied in the deep solitudes of the pathless wilderness. The destruction of this ill-fated band had cast a deeper shadow than ever over the fortunes of the West. For a young and ardent soldier, the prospect was indeed gloomy beyond description. The maintenance and defense of a long line of posts had devolved upon the slender remains of this broken army. Again did the remonstrances of his friends assail the youthful HARRISON. Again was he reminded of the toils and perils to which he was exposed, and again was he urged, in the strong language of entreaty as well as expostulation, to abandon a service to which his slender frame and delicate constitution were supposed to be unequal. Nothing daunted, however, by the appalling picture which was presented to him, and feeling that he had pledged his honor as well as his life, to abide the issue, he turned a deaf ear alike to the suggestions of indolence, and the importunities of friendship, and being soon after detailed upon a difficult and dangerous service, he acquitted himself with so much satisfaction, as to receive the public thanks of his commander. In the year following he was promoted to the rank of a Lieutenant.

In the meantime, however, the war had assumed so formidable an aspect, that it became necessary to take more decided and vigorous measures for its suppression. A new army was ordered to be raised, and the discriminating eye of General Washington at once singled out a distinguished officer of the Revolution—the hero of Stony Point—the intrepid and impetuous Wayne—as the man best fitted to arrest the encroachments of the savage, and to carry the terror of our arms into his forest fastnesses. Nor was the sagacity of the President disappointed in the result. Dearly, indeed, did he avenge the disasters of Harmar and St. Clair—dearly, indeed, did he pay back the debt of blood which had been incurred on the frontier—so dearly, that for many a long year the very name of Mad Anthony—as he was familiarly styled—was a terror throughout all the tribes of the North-west. But he had an army to organize, as well as to discipline. Most of the experienced officers who

served under St. Clair had either fallen in battle, or surrendered their commissions; and no sooner had his eagle eye fallen upon our young subaltern, who joined him at Fort Washington (now Cincinnati), in the month of June, 1793, than recognizing in him a spirit kindred to his own, he grappled him to his side, and raised him, at the age of twenty, to the honorable rank of his second Aid. In such a school he could not long be inactive. The army soon after marched in the direction of Greenville, where they were obliged to go into winter quarters, and on the opening of the campaign in the next following year, they roused the savage from his lair, and drove him before them until they brought him to bay, on the 20th day of August, near the rapids of the Miami. The contest was a fearful one, but the star of Mad Anthony was in the ascendant, and victory perched, as of old, upon his successful banner. The confederate tribes of Indians, reinforced by their Canadian allies, and more than doubling in number the little band of the American commander, reeled before the shock of his invincible battalions, and were driven, with prodigious slaughter, under the very guns of a British fort, which had been recently erected at that point. The gallantry and good conduct of Lieutenant HARRISON, who had been intrusted with the difficult and dangerous task of forming the left wing of the American forces in that action, were made the subject of the warmest commendation in the dispatches of his commander; and it is no small evidence of merit of the very highest order, that the first virgin wreath which adorned his youthful brow, was twined around it by the hands of a disciplinarian so stern and rigid as the unbiased and uncompromising Wayne. The individual who now addresses you, has heard a portion of the details of that eventful day, from one who fell upon that bloody field, pierced through the lungs by a musket ball, and still miraculously survived to bear his personal testimony to the unshrinking valor of his young comrade and companion in arms. He saw his lofty plume dancing along the front of the battle—he witnessed him hurrying from rank to rank, cheering the faint and rallying those who wavered, and he heard the clear tones of his clarion voice ringing above the din of the battle, as he communicated in every direction the orders of his commander.

The victory of the Maumee humbled the savage tribes, secured the surrender of the frontier posts, and terminated the war in the treaty of Greenville. Our young adventurer, then advanced to the rank of Captain, was left by General Wayne in the command of Fort Washington, where he remained until 1797, when finding that the country no longer required his

services in the capacity of a soldier, he resigned his commission in the army, and was immediately thereafter appointed Secretary, and ex-officio Lieutenant Governor, of the North-west Territory.

He was not, however, permitted to remain long in that position. The admission of that territory to a representation on the floor of Congress, was the signal for his translation to a different sphere. His extraordinary merits, and great personal popularity, indicated him at once to the people of that region as the individual who, above all others, was best qualified to represent their vast and varied interests, and in obedience to the general voice, he took his seat in the year 1799, as their first representative delegate in the councils of the nation.

The period of his civil service was not less distinguished or successful than his career as a military man. He had already rendered the most important aid in conquering the fair realm, with whose interests he was now intrusted, from its native lord; he was now about to perfect his title to the gratitude of the West, by conquering it once more from the wild dominion of nature herself, by opening up a highway for the emigrant, and peopling its vast but unproductive solitudes with a great family of freemen. The policy of the general government in regard to the public lands had been of such a character as to retard their settlement and growth, by dividing them into tracts of three or four thousand acres only, and thus placing them beyond the reach of the poor but meritorious settlers. The first public act of their new representative was the introduction of a bill to effect a radical change of that system, by reducing the amount to three hundred and twenty acres. The zeal and ability and eloquence of its advocate secured its passage, and the principle has been still further extended under subsequent administrations. Its results are before us in the teeming population and giant power of the yet infant West. Other conquerors have made a desert where they found a Paradise, and erected their sceptres over unpeopled realms, where the very verdure had fled from the blasted and bloody heath before the sirocco breath of war. It was the boast of Attila, that no blade of grass ever grew beneath the fiery hoof of his war-horse. It is the glory of HARRISON, that his far-reaching sagacity has "made the solitary places glad," unfurled the standard of civilization in the wilderness, and founded an empire where he found a solitude. If his career had ended here, he would have been richly entitled to the eternal gratitude of the West. He has lived long enough to feel that it remembered the hand which

had nursed it into strength, and long enough to reign with undivided sway over the hearts of its people.

But his services did not end here. The division of the immense district which he represented, and the erection of the new territory of Indiana, furnished a fresh occasion for the exhibition of that confidence which had placed him already in the councils of the nation. The choice of the Executive, concurring with the wishes of the people, again invested him with the high functions of Territorial Governor. The region over which he was now called to preside, extending as it did at one time, from the straits of Mackinaw to the gulf of Mexico—from the frozen lakes of the North to the orange groves of Louisiana—comprised a province such as no Roman prætor, no lieutenant of the Cæsars, had ever governed in the proudest days of the Roman empire. The powers intrusted to his hands were almost equally unlimited. The highest attribute of sovereignty, the enactment of laws—the appointment of all officers and magistrates, military as well as civil—the supreme command of the militia—the distribution of his extended jurisdiction into counties and townships—and the general superintendence of the affairs of the Indian tribes—who were restless and impatient of restraint, were but a few of the imperial prerogatives which were conferred on him. To all these vast powers were added by Mr. Jefferson the authority of a General Commissioner to treat with the Indian tribes, under which he negotiated not less than thirteen important treaties, and effected the surrender of more than sixty millions of acres of land by its savage proprietors. The manner in which he executed this high trust, larger, in many respects, than any which had ever been delegated to any one man in this country, and therefore extremely susceptible of abuse, may be inferred from the fact, that the commission which he professed to hold only under the will of the people, was renewed from time to time at their earnest and unanimous request, by Mr. Jefferson and Mr. Madison, until it was merged at last in the command of the North-western army.

But he wielded no idle sceptre. He was the military as well as civil head of the territory over which he presided, and he had a country to defend as well as to govern. The vast region which had been committed to his charge was in a great measure a wilderness, with here and there only a white inhabitant, but swarming with the remnants of many a hostile tribe, smarting under the recollection of past conflicts, and ever ready to wreak their implacable and undying hate upon the white man, by carrying devastation and dismay into the settlements.

Nor was the border warrior less prompt in repairing such injuries, whenever the opportunity occurred to him. The causes of irritation were frequent; the ancient and irrepressible feud between the red and the white man flashed up into hostilities at every accidental collision, and if the incendiary torch descended upon his home, the blood of the savage smoked as an expiatory offering over the embers of the white man's dwelling. To keep down these feuds, and to afford full protection to the settler, while he practiced entire forbearance and uniform conciliation toward the savage, was the delicate and difficult task which was assigned to him by the general government. He succeeded for a long time in holding the balance between them, and preserving the peace of the settlements, without forfeiting the confidence of either, and while he secured the affections of the pioneer, his kindness and impartiality propitiated the good will, while his firmness and courage overawed the turbulence, and repressed the predatory habits of the Indian.

But the long smothered fire, industriously fed by the money and the emissaries of Great Britain, at length flamed out into an open rupture. The prospect of an impending outbreak with that country redoubled the activity of its agents, and the dark and portentous cloud of savage warfare began to gather and blacken on the western horizon. The gigantic plan of a confederation of all the North-western tribes for the purpose of re-conquering the territory which they had lost, was set on foot by a leader of great enterprise and sagacity, and of uncommon valor, in the person of the famous Shawnee chief—the renowned Tecumthe. With him was associated a brother of less ability, but of no less distinction, and of perhaps more commanding influence, who was generally designated by the title of the Prophet, because he was so esteemed throughout all the tribes. Under the auspices of these two men, the scattered elements of discontent and mischief were gathered together at a place of common rendezvous on the Wabash, near the mouth of the Tippecanoe, and known afterwards by the name of the Prophet's town.

But the wary eye of the governor was upon them, and at the first symptom of threatened disturbance, arising out of the treaty which he had negotiated at Fort Wayne—with several of the tribes, in the absence of Tecumthe himself, he dispatched a messenger to invite him to a conference. The chieftain came, not unattended, as was agreed, but with a formidable escort of no less than four hundred armed warriors in his train. The meaning of such an attendance could not be mistaken. But the governor was not to be intimidated. He met the savage chief,

and listened with calmness to his complaint. No sooner, however, had he replied, than Tecumthe, for all answer, fiercely ejaculated, "It is false"; and on the instant, as though by some preconcerted signal, his followers started to their feet and brandished their war-clubs, while he continued to address them in their own language, with great rapidity of enunciation and equal violence of gesture. The crisis was a fearful one, but the self-possession and intrepidity of the governor were fully equal to the occasion. Though unattended but by a handful of guards, he rose with dignity from his seat—coolly drew his sword—rebuked the perfidy of the Indian—and ordered him to withdraw at once from the settlements. The conference was broken up in confusion, and the savages, overawed by the gallant bearing and manly determination of the governor, withdrew without further disturbance. On the following morning, Tecumthe apologized for the affront, and solicited a renewal of the conference, which was granted. It took place, but without any favorable result, and a few days after its termination, the governor, still anxious to conciliate the powerful chief, repaired in person to his camp, attended only by a single interpreter. The savage was surprised. He could not but respect the courage of his enemy, and he received him with kindness and courtesy, though without receding from the determination which he had previously announced, of disregarding the treaty, and maintaining his ancient boundary. The story sheds so strong a light upon the character of HARRISON, that I have felt it to be my duty to give it a place in the present narrative.

In the meantime, however, the breath of the coming tempest, which had been so long gathering on the horizon, began to agitate the leaves of the forest, and the low muttering of the distant thunder to be heard in the settlements. The war-belt—the fiery cross of the red man—was passing through the wilderness, and in obedience to the summons, the warriors of the wilds were thronging to the standard of the Shawnee chiefs. The indications were now so apparent of a great preconcerted movement, and a general rising among the tribes, that the governor of Indiana, whose sagacity on such occasions was never at fault, admonished of the necessity of taking early and vigorous measures for the suppression of the evil, was induced to seek, and obtained permission from the general government, to break up the encampment on the Wabash, which was the general rallying point of the disaffected, and where it was understood that more than a thousand warriors were already collected, and under arms. With a force of about nine hundred men, composed of the militia of his territory, a

detachment of regular troops, and a small but gallant band of Kentucky volunteers, but with his hands tied by a positive instruction to avoid hostilities, except in the last resort, he accordingly commenced his march on the 20th of October, 1811. His commission was exceedingly delicate and difficult. His mission was peace; his only privilege, in the face of a savage enemy who might select his own time and place for an attack, was the humble privilege of self-defense, whenever he might be assailed. When he arrived within a few miles of the Prophet's town, he sent in a flag of truce, in pursuance of his instructions, for the purpose of negotiation for a treaty of peace. The answer of the Prophet was friendly. He disclaimed all hostile intention, and pledged himself to meet his adversary in a council on the following day. But Governor HARRISON understood the Indian character too well to be thrown off his guard by protestations such as these. He accordingly halted, and placed his camp in a posture of defense.

The night of the 6th of November was dark and cloudy. On that memorable night, a gallant little band might have been seen stretched in fitful and uneasy slumber, by their watch-fires near the Wabash, under the shadow of the ancient but now leafless oaks, which reared their giant heads around. Here, in the order of battle, and with his arms and accoutrements by his side, lay the wearied foot-soldier, with his head pillowed upon his knap-sack; there, the border knight, endued in all the panoply of war, reclined at the feet of his faithful steed; and yonder, tethered to the door-post of an humble tent, pawed the impatient charger of the chief himself. The deep solitude of the forest, which was so lately startled by the armed array, had again subsided into repose. No sound disturbed the quiet, save the sighing of the autumnal wind, as it swept through the arms of the aged oaks which canopied their heads, or the occasional challenge of the sentinel, as he measured his midnight rounds. On a sudden, about the hour of four in the morning, and just when the tap of the morning drum was about to arouse the sleepers from their repose, a single shot was heard, and on the instant the yell of a thousand savages rent the quiet air, and the flash of a thousand rifles lighted up the deep gloom of the primeval forest. The onset was no less terrible than sudden. The savages were in their midst, but every soldier was in his place, and the assailant and assailed were soon locked in the embrace of death. In the twinkling of an eye, the watchful governor, who had been sitting by his tent-fire conversing with his aids, and waiting the approach of dawn, was on horseback, and at the point of danger, and throughout

the whole of that action was he seen, himself the most exposed of all, galloping from point to point, wherever the contest waxed fiercest, fortifying the positions where the fire was most destructive, and animating his troops by his voice as well as by his example. And nobly was he seconded by his gallant men. For two long hours did the contest rage, for the most part hand in hand, throughout the gloom, until the dawn of the morning lighted up that field of blood, and enabled the American commander, by one simultaneous charge along his whole line, to put the enemy to flight.

The history of our country has furnished the example of few fields which have been as stoutly contested as this, and it has been remarked by those who were familiar with the practice of Indian warfare, that on no other occasion has the savage been known to exhibit the same degree of determined, and desperate, and persevering valor. The slaughter on both sides was considerable. Many of the bravest of our officers fell. That General HARRISON himself should have escaped, is almost a miracle. He was slightly wounded by a ball which passed through the rim of his hat, but he bore, like Washington, a charmed life, because, like him, he was destined for higher purposes.

The result of this action was decisive. The confederacy of the hostile tribes was dissolved by the disasters of this day, and peace and quiet were once more restored to the alarmed frontier. The invaluable services of Governor HARRISON were recognized in the most flattering terms by President Madison, in his next annual message to Congress, and his skill and heroism were made the theme of special panegyric by the legislatures of Kentucky and Indiana, by whom he was publicly thanked in the names of their respective constituents.

The tranquility which followed was, however, of short duration. In less than one year after the battle of Tippecanoe, the long threatened war with Great Britain took place. The tribes of the North-west were again in arms, straining like greyhounds in the slips, and waiting but the signal of their civilized employers, to carry havoc and devastation once more into their settlements. The whole frontier was almost entirely defenseless. With the fall of Detroit, which was soon after invested by the British, no barrier would be left to stem the torrent of barbarian war, except the stout hearts and strong arms of the inhabitants. They were, however, ready, as they have ever been, for the emergency. All they desired was a leader of approved courage and undoubted skill, and every eye was turned at once upon the successful soldier, who had so recently humbled the

pride, and broken the power of the Indian upon the Wabash. The chivalry of Kentucky was first upon its feet. Upward of five thousand of her citizens were already in arms, and the governor of that state invited him to a conference in relation to the disposal of the troops which she was about raising for the defense of the country. He repaired to Frankfort, in pursuance of the invitation, and was received there with more than a soldier's welcome. But higher honors were yet in reserve for him. The volunteers of Kentucky were under the command of her ablest citizens. Two thousand of them were ordered at once for the relief of Detroit; but no sooner was their destination announced, than they, with one consent, declared their earnest desire to be placed under the command of HARRISON. The wishes of the people corresponded with the sentiments of the soldiery. But the laws of Kentucky forbade the appointment of any other than one of her own citizens to so exalted a trust. In this dilemma, the Executive consulted with the most distinguished men of the state, and by their unanimous advice he disregarded the prohibition, and conferred upon Governor HARRISON the brevet rank of a Major General in the Kentucky militia, with express authority to take the command of her troops who were destined for the frontier.

In the very midst of all these preparations, the intelligence of the dastardly surrender of Hull, and the fall of Detroit, descended like a thunderbolt upon the people of the West, and spread consternation and dismay throughout all their borders. But the reappearance of the heroic governor of Indiana, at the head of the Kentucky levies, restored the public confidence at once. The intelligence of his appointment to the chief command thrilled like the electric spark along the whole line of the frontier. The hardy settler on the upper Ohio sprung to his arms; the men of "the bloody ground" came up in thousands to the standard of their favorite chief; and even the dwellers beyond our own mountains—the yeomanry of Western Pennsylvania—acknowledging the generous impulse, and fired by the common enthusiasm which pervaded the whole West, abandoned their plows in the furrow, and snatched down their rifles from the wall. The arrival of General Harrison was welcomed with shouts of applause by the volunteers assembled in the state of Ohio. The President of the United States had, in the meantime, without the knowledge of what had transpired in the West, bestowed the chief command on General Winchester, an officer who had gathered experience and distinction in the war of the Revolution, and invested General Harrison with the rank of a Brigadier; but the judgment of the people reversed the decision

of the President, and in conformity with the unanimous wishes of the army, who were only reconciled to the change by the assurance that it would be of brief duration, he raised the defender of the frontier at once to the highly honorable, but most arduous trust of Commander-in-Chief of the North-western army.

But his was no holiday distinction. To him the triple duty was assigned, of defending a long line of frontier, of retaking Detroit, and of carrying the war into the province of Upper Canada. To accomplish all this, he had a force at his disposal of about ten thousand men. But they were raw and inexperienced, unaccustomed to habits of obedience or to the discipline of a camp, enlisted generally for short terms of service, and governable only by the personal influence of their commander. He was, moreover, without military stores or munitions of war, without magazines, or depots, or fortified posts, and thus ill-provided, with these slender and unequal means, he was expected to traverse an almost impassable wilderness, and to encounter, in the wily savage and the well-trained veteran, a combination of force such as no other American general had perhaps ever met. But he accomplished it all, and to the astonishment and admiration of the whole country, he achieved this great work in the incredibly short space of some thirteen months, driving the invader from our soil, pursuing and overthrowing him on his own territory, and planting the triumphant banner of his country over the lion standard of England upon the field of the Thames.

In pursuit of this object, he laid down his plan of operations on a base line extending from Upper Sandusky to Fort Defiance, with a common point of concentration at the Rapids of the Miami of the Lakes, and distributing his army into three divisions, the right of which, consisting of the Virginia and Pennsylvania troops, was commanded by himself in person, he directed a simultaneous movement upon that point. By the last of January, through incredible hardships, and after most unexampled toil, this first important step was accomplished, and a general junction effected at the desired place. The army then went into winter quarters; the position was strongly fortified, and the name assigned to it of Camp Meigs, in honor of the governor of Ohio. It was destined to become the theatre of one of the most brilliant events of the war, and if it has not received that distinction which it deserved, it is only because it paled before the superior lustre of the events which followed.

The siege of Fort Meigs is familiar to you all. There are some within the hearing of my voice who were there, and if

there be one amongst them who can think of the kindness and the courage of his old commander now, without feeling the blended emotions of pride and affection swelling from his heart and dimming his eye, I have yet to meet him. I will not, therefore, fatigue you with details. On the 27th of April, the British General Proctor sat down before that position with a large force of regulars and Indians, amounting to several thousand men, and after opening on it a tremendous fire from their several batteries erected for that purpose, sent in a flag to demand its surrender, as the only means of saving the garrison from the tomahawk and scalping-knife. The reply of General HARRISON was characteristic: "Tell General Proctor that this fort will never surrender to him on any terms. If it should fall into his hands, it will be in such a manner as will do him more honor, and give him larger claims upon the gratitude of his government, than any capitulation." The batteries of the enemy were carried by a well directed and brilliant sortie, and the British general, despairing of success, broke up his camp, and retreated in confusion and disgrace in the direction of Malden. Again, however, did he renew the attempt with a still stronger force, but again was he obliged to abandon it in despair, and take refuge beyond the border. But there was no safety for him there. The indefatigable HARRISON, with his brave frontiers-men, incensed at the barbarities of the savage Proctor, and thirsting for revenge, was on his bloody trail. With the zealous cooperation of the gallant Perry, who had just achieved, with the assistance of HARRISON, his memorable victory on the lake, he embarked his troops—landed them on the Canadian shore—encamped on the ruins of Malden—and pursued, and overtook, and captured his flying enemy on the banks of the Thames. Of the details of that action, I have not leisure to speak. Its result was not less important than honorable to the American arms. It annihilated the British force in Upper Canada, dissolved in the blood of Tecumthe the alliance with the Indian tribes, and wound up the war in a blaze of glory along the whole North-western frontier. Nor did it fail to be properly appreciated by the people. The intelligence of this great victory sped like lightning over the whole land. The sound of rejoicing was heard on every side. Our cities blazed with bonfires and illuminations. From town and tower the bells rang many a merry peal. The path of the conqueror in the direction of the seat of government was a career of triumph. The victory of HARRISON was pronounced on the floor of Congress to be such an one as "would have secured a Roman general, in the best days of the Republic, the honors of a triumph;" the blessings of thousands of women

and children rescued from the scalping-knife of the ruthless savage of the wilderness, and from the still more savage Proctor, were invoked upon his head by the governor of our own state, in these very halls; and the solemn thanks of the nation were awarded to him by the nation's representatives.

With all these honors clustered round his brow, the laureled chief returned to Cincinnati, in January, 1814, to resume the command of his appropriate district. If the judgment of the public had been consulted, it would have assigned to him a higher and more honorable destination. The western horizon, thanks to his heroic efforts and sacrifices, was now clear, and there was no further employment there for such a man as HARRISON. But the war was still raging in the North, and much and deep solicitude was felt amongst the officers and soldiers there, that the chief command, which he had so richly earned, should be bestowed on him. The gallant Perry, who had served as a volunteer aid by the side of HARRISON at the battle of the Thames, in a letter written to him about that period, says, "You know what has been my opinion as to the future commander-in-chief of the army. I pride myself not a little in seeing my prediction so near being verified; yes, my dear friend, I expect to hail you as the chief who is to redeem the honor of our arms in the North." General McArthur, another of his fellow-soldiers, who had served long under his command, in another letter of the same date, written from Albany, declares, "You, sir, stand the highest with the militia of this state of any general in the service. I am confident that no man can fight them to so great an advantage, and I think their extreme solicitude may be the means of calling you to this frontier." The veteran Shelby, a relic of the Revolution, who had fought in some of its bloodiest fields, and had finished his brilliant career of service under HARRISON himself at the Thames, in a letter addressed to President Madison, a short time afterward, expresses the same opinion in much stronger language. "A rumor," he says, "has reached this state, that the commanding general of the Northern army may be removed. The circumstance has induced me to reflect on the subject, and give a decided preference to Major General HARRISON as a successor. Having served a campaign with General HARRISON, by which I have been enabled to form some opinion of his military talents and capacity to command, I feel no hesitation in declaring to you, that I believe him to be one of the first military characters I ever knew; and in addition to this, he is capable of making greater personal exertions than any other officer with whom I have ever served. I doubt not but it will hereafter be found that the command of the North-

western army, and the various duties attached to it, has been one of the most arduous and difficult tasks ever assigned to any officer in the United States. Yet he surmounted them all. Impressed with the conviction that General HARRISON is fully equal to the command of the Northern army, should a change take place in that division, I have ventured thus freely to state my opinion of him, that he is a consummate general, and would fill that station with ability and honor; and if, on the other hand, any arrangement should take place in the War Department which may produce the resignation of General HARRISON, it will be a misfortune which our country will have cause to lament. His appointment to the command of the Northern army would be highly gratifying to the wishes of the Western people." Such was the voluntary testimony of a soldier who had fought under such officers as Gates, and Marion, and Greene.

But the Secretary of War had other views. General Harrison had offended him, and in return, he was destined for inactive service, as the fruit of all his toils. With the quick sensibilities of a soldier, he had remonstrated with great warmth, against the withdrawal of General Howard from his command, as an invasion of the prerogatives of his rank and station, as the commander of a military district, declaring at the same time, that "apart from the consideration of his duty to the country, he had no other inducement to remain in the army, and that, if those prerogatives were taken from him, he could render no important service, and would much rather be permitted to retire to private life." Another interference, of like character, with the internal police of his district, in an order issued directly to Major Holmes, one of his subordinate officers, in violation of all military propriety, joined to the persuasion that he was destined to rust in inglorious repose, determined him at once, and he threw up his commission, assigning as a reason therefor, in a letter of the same date, addressed to the President himself, that he could hold it no longer with a proper regard to his own feelings or honor. It was accepted by the Secretary, in the absence of the President and very much to his regret; and thus the nation was deprived of the military services of the only general who had then shed lustre on its arms.

But those services were too valuable to be dispensed with altogether. The President of the United States, seized upon the earliest occasion which presented itself, to testify his unabated confidence in the western chief, by appointing him, during the same summer, in conjunction with Governor Shelby and General Cass, to negotiate a treaty with the Indians at Greenville; and in the next following year, he was placed at the head of another

commission of like character, arising out of the final termination of the war with Great Britain. In both instances he acquitted himself with the same signal credit which had attended all his diplomatic efforts in that direction.

His long period of public service in the employ of the general government having now ended with the return of peace, General HARRISON retired to his farm on the Ohio, for the purpose of devoting himself to the pursuits of private life, and repairing those losses which had resulted from his patient and uninterrupted devotion to the service of the country. But he was not long permitted to enjoy the quiet or repose which he sought. The public voice again assigned him to a place in Congress, where he remained until the year 1819, when he was elected to the Senate of the state of Ohio, from which he was translated in the year 1824 to a seat in the Senate of the United States, as one of the representatives of the giant state which had sent him in its infancy to the public councils, in the humble capacity of its first territorial delegate. Of his services there, it would be impossible to discourse at large within the brief space which is allowed me. It is enough to say, that they were entirely worthy of his ancient fame—his large experience, his cultivated understanding, and his remarkable readiness and power as a debater, placing him at once in a commanding position in that august assembly.

In the latter part of the year 1828, he received from Mr. Adams the appointment of Minister Plenipotentiary to the Republic of Columbia, from which post he was recalled early in the following year, without the opportunity of distinguishing his mission by any other incident than the publication of his celebrated letter to Bolivar. On his return, he repaired again to his humble but beautiful retreat on the Ohio, where he continued to enjoy that repose which was so necessary to his toil-worn frame, until the voice of the nation again summoned him from his retirement, to preside over the destinies of this great empire.

The rest of the story is soon told. He obeyed the summons: the West surrendered its chief into the arms of the Republic, and already he sleeps with his fathers, and a sorrowing nation weeps over his tomb. He has gone down—he, the survivor of so many conflicts, who has so often ridden unharmed on the fiery breath of the battle field—has gone down—not in the shock of contending armies, not amid the thunders of the fight, but rather like some ancient oak, which has breasted the tempest for a thousand years, and then falls in the stillness and solitude of the forest, with all its branching honors about its head. If the

hopes and prayers of a great people could have averted the impending blow, it would not have fallen. But the approaches of the destroyer had no terrors for him. He had already encountered him in a thousand forms. No unseemly struggle—no shrinking of the flesh—no darkening of the spirit—characterized the final rupture of that tie, which wedded the immortal occupant to the frail tenement which it had animated and illuminated for nearly seventy years. It went down like a tranquil sunset, and as it was shedding its last parting rays upon the mansion which it had so long inhabited, it flashed for a moment upward, cleared the film from the darkening eye, and showed that the last thoughts of the patriot were turned upon his country. “I wish you to understand the true principles of this government. I wish them carried out. I ask nothing more.” It was his dying testament to his successor. May it be executed in the spirit in which it was delivered!

Having thus accompanied the illustrious man, whose loss we so deeply lament, down to the last closing scene of a long and eventful life, it only remains to gather from the varied picture which that life presents, a few of the leading traits which mark the individual, and, added to his public services, assist in distinguishing him from his compeers, and taking him out of the roll of ordinary men.

Of the character of General HARRISON as a military man, it will be scarcely necessary to speak. The judgment of his contemporaries is already before you, and there is no appeal but to that august tribunal which will pronounce its decision through the voice of impartial history. If, however, success is to be regarded as the true criterion of ability in this kind, that voice must assign to him a high rank amongst our military commanders. To him belongs the distinguished merit of being one of the very few leaders who, during a long period of service, have borne the flag of our country in triumph over many a field, and never suffered it to bow in dishonor in one. It has been publicly remarked of him, by one who was a gallant and successful soldier himself, that “he had been longer in active service than any other general officer—was perhaps oftener in action than any of them, and had never sustained a defeat.” But if results are to be compared with means, how transcendent must his merit appear! He had armies to create, to organize, and to supply—of materials which were ever changing, and of men who were not habituated to obedience. The men whom he commanded were no hireling soldiery, no mercenaries, whose blood could be measured, and weighed, and counted out in drachms.

They were men like ourselves, of all trades and professions, who had taken up arms in defense of their homes and their firesides, their wives and their children. They constituted moreover, the only defense of the frontier, and their lives were not to be thrown away on calculation, or the safety of that frontier jeopardized by a general action at any disadvantage. To General HARRISON it was not permitted, as to Napoleon, to win his victories, or cover himself with laurels, at the rate of ten thousand men a day. It was incumbent on him to accommodate himself to circumstances, to husband carefully his resources, to be on all occasions wary, circumspect and prudent, and to adopt that Fabian policy which had conducted us so triumphantly through the war of the Revolution, and which won for him the exalted title of "the Washington of the West." In his personal character, too, were most admirably blended all those elements, which, by their well tempered and judicious intermixture, constitute the high talent of military command. A happy mixture of caution and courage—remarkable coolness and self-possession in danger—an inexhaustible fertility of resources—great decision of character—high powers of combination, and equally high powers of physical endurance—together with a kindness of heart and manners, which secured the affections of his soldiery to such an extent, that, in the language of a historian of the late war, "his men would have fought better and suffered more with him, than with any other general in America"—were among his leading qualities. To these, also, may be added an ardent love for his profession, and an assiduous devotion to the study of military science, which distinguished him even in his novitiate in arms. But he could scarcely be considered a soldier by profession. It was only when the country required a defender, that he was induced to take the field, and when the exigency was over he invariably returned again to the walks of civil life.

Nor were his excellencies less conspicuous there. As a statesman, he occupied a high rank in the councils of the nation. With a ready eloquence, which was never at fault, and a voice of great compass and power, joined to a lively imagination, and the rich and varied stores of a well cultivated and well regulated mind, he never spoke without commanding the attention of his audience, and never failed to make an impression whenever he was heard; and he has left behind him some memorials of his ability, that are among the finest specimens of intellectual effort which embellish the register of our congressional debates. General HARRISON was a natural orator. With him it was an original gift. His lip was touched with the living fire which art may

improve, but no study can ever impart. Endowed, like some of the Athenian generals, with a ready faculty of communicating his ideas, and remarkable powers of language and illustration, his thoughts flowed smoothly, and freely, and strongly, and without effort or constraint. He was, perhaps, the only one of our military commanders who has indulged in the practice of oral addresses to his troops; and if any evidence were wanting of the effect of his oratory, it might be found in many instances throughout his military career. His suppression of a mutiny amongst the Kentucky levies at Fort Wayne, is one of the most remarkable. His sudden appearance among the excited soldiery—his strong, affectionate, impressive and eloquent appeal to the pride and patriotism of the Kentucky troops—and the immediate return of those brave men to their duty—compose one of the most striking pictures of the effect of popular eloquence which can be found on record.

Nor was he less distinguished as a writer. His general orders and his dispatches, written as they were without premeditation, and frequently upon a drum-head, are among the clearest and most forcible which have ever emanated from any of our commanders; and his occasional papers, among which may be enumerated his Report on the Militia—his disquisition on the Aborigines of the Valley of the Ohio—his Lectures on Agriculture—and his famous letter to Bolivar—are so elegant in diction, so replete with classical illusion, and so rich in rhetorical beauty, that they would do honor to any man in the country.

But there is more in the character of this distinguished man than perhaps history will ever chronicle, or any other than the faithful pen of biography will ever portray. It was a sentiment of his own, that "the successful warrior is no longer regarded as entitled to the first place in the temple of fame, and that to be esteemed eminently great, it is necessary to be eminently good." And well may he submit his reputation beyond the grave, to that high ordeal which he has himself prescribed. It will impair none of his titles to the distinction which has been bestowed on him by his countrymen. He will pass through it, not merely unharmed, but purified, exalted and ennobled—surrounded with a bright halo of moral beauty, which will throw all his laurels as a warrior into the shade. If he was without fear as a soldier, he was without reproach as a citizen. If his high qualities, and successful career as a general, entitled him to be styled "the Washington of the West," the resemblance did not end there. His private character, like Washington's, was without spot or

blemish. Like him, he was in all his relations, kind, generous and humane, with the integrity of a Fabricius, and a "chastity of honor" which would have been worthy of a Bayard. In war, he was a very minister of mercy. He suffered no harsh or ignominious punishment to be inflicted on his troops. His argument was reason—his chastisement, reproof. He pardoned them when they erred, and he taught them to be merciful like himself, even in their collisions with the enemy. "Let an account of murdered innocence be opened in the records of heaven against our enemies alone. The American soldier will follow the example of his government, and the sword of the one will not be raised against the fallen and helpless, nor the gold of the other be paid for the scalps of a massacred enemy." "Kentuckians! Remember the River Raisin; but remember it only while the victory is suspended. The revenge of a soldier cannot be gratified on a fallen enemy." Such was the sublime and eloquent language of his addresses to his soldiery after the affair of the Massissiniway, and before the battle of the Thames. In the first, he was thanking his brave Pennsylvania volunteers for their humanity; in the second, he was stimulating the countrymen of those who were slaughtered in cold blood at the Raisin River, to a lively but a generous recollection of their wrongs. How noble! How exalted! How far do such sentiments place him above the level of the vulgar hero! And how beautifully did his own conduct correspond! When he passed over into Canada, in the month of October, at the head of his conquering legions, he carried with him no other covering than a blanket at his saddle bow; but instead of retaliating the barbarities of the bloody Proctor, it is related of him, that he generously parted with even that blanket, to relieve the sufferings of a wounded British officer, on the very night after the battle of the Thames.

His magnanimity was not less conspicuous than his humanity. On the only occasion wherein his integrity was ever questioned, after vindicating his honor by an action in which the most exemplary damages were awarded him, he bestowed one-third the amount on the orphan children of his fellow-soldiers who had fallen in battle, and remitted the remainder to the very individual who had injured him. He was capable even of pardoning the assassin who had hired his steel to strike at his own life, on the eve of his engagement on the Wabash. No vindictive feeling ever found a habitation in his bosom. No stormy passion tossed it into wrath. It was the dwelling place of none but the gentle affections. He treasured up no dark remembrance of wrong; he carried with him into his high office no feelings

of personal unkindness even toward those who had warred most bitterly against him; and the universal sorrow which now overspreads this land, furnishes the highest assurance that he who knew no hate—no feeling which a man might blush to own—has died, as he deserved, without an enemy.

But who shall tell of the many private virtues, which surrounded and sanctified his fire-side? Who shall relate the noble deeds of charity, which diffused their influence around his hospitable home? There is no record kept on earth of the sorrows of the humble, and none which can disclose the quiet and unpretending ministry which relieves the wants of the distressed; but well did the unfortunate know the heart which was ever alive to the appeals of suffering, and the hand which was ever open to the cry of distress. The tales which have been told in illustration of this beautiful trait in the character of General HARRISON, are many of them so unlike anything which we have been accustomed to see around us, as to have been regarded by many as mere fables. Incredible, however, as they may have seemed, some of the most incredible were true. That the same may be said of most of them I verily believe, and so too will those who remember that one of the very last acts of his life was an act of the purest and noblest charity toward a poor seaman, with whom accident alone had made him acquainted.

If he had any fault, it was his exceeding generosity, his unparalleled disinterestedness, his utter disregard of self. As Superintendent of Indian Affairs, he declined the perquisites which had been usual in that office. For his important services on the Wabash, he neither asked nor received compensation. As commander-in-chief of the army, the deficiency of his pay, arising from his liberal hospitality and his private charity, was supplied out of his own private resources; and a committee of Congress in 1817, bore honorable testimony to the fact that his private fortune had suffered very materially from his devotion to the public interests. For reasons such as these, and with opportunities of amassing wealth such as few men in this country have ever enjoyed—which he refused to improve, because he was a public officer—he has died poor—not in the gratitude of his countrymen—but poor in worldly wealth, and the Republic which so lately received him from the arms of his family, has returned nothing but his ashes to those who looked up to him for protection. While the nation mourns, there is one—the bereaved—the companion of his early manhood and the witness of his recent fame—who heeds not the voice of eulogy or the funeral pomp, but weeps as did Rachel of old, in solitude by the

waters of the Ohio. The nation cannot return to her what it received; it cannot re-animate the generous and affectionate heart which is now cold; but it can throw its sheltering arms over the heads of the afflicted, and shall it not, out of its abundance, relieve the lone and disconsolate one—the partner of him who has served it so long and so well—in the hour of her darkness and tribulation? If HARRISON had lived, and she had been the relict of another who had served and died like him, he would have been the first himself to have appealed in her behalf to the generous sympathies of the nation.

But I can no longer dwell upon this attractive theme. All these high qualities—all these rare endowments—all these exalted and ennobling virtues, have perished with the manly heart around which they were so richly clustered. HARRISON is no longer among the living; his name now belongs to history. He has taken his place in the national Pantheon; he is enrolled in the list of the illustrious dead. Another of the remaining links which still connect us with the heroic age of the Revolution is sundered. The father and the son—the signer of the immortal Declaration, and his still more illustrious offspring—now stand side by side. The fame of the younger, like that of the elder Harrison, is now one of the family jewels of the country. But it lives not merely in the records of the past; it still lingers in the affections and memories of the living. And so it does now, and so it will continue to linger in the hearts of those who hear me. I recognize no exception. I fear not the intrusion of any unkind recollection, any unhallowed or irreverent thought, into a scene like this. The father of our Republic is no more, and we, his children, are assembled around the funeral urn, to gaze for the last time, upon the pallid and death-smitten features of him who has just departed. It is not HARRISON the candidate—it is HARRISON the President—it is the Commander of our armies—it is the young Ensign of Maumee—it is the soldier of Tippecanoe—it is the conqueror at the Thames—and *we*, we are Americans, who now do honor to his memory. It is a nation which mourns—it is the chief of a mighty people who has fallen. The deep, and pure, and beautiful fountain of American feeling has welled up at the general shock of this great calamity, and the grand moral spectacle is now exhibited, of a whole people in tears. Who would not die so to be lamented, and so to live hereafter? The loss is not his, who has thus been embalmed, but ours. The Providence which has afflicted has not been unkind to him. He has been reserved for the enjoyment of the highest honors of the Republic, as though it had been merely to

secure to him a niche in that immortal gallery which belongs to our canonized dead; and he has been removed from the labors and responsibilities of his high station, with no hope disappointed, no confidence impaired, but with the first flush of the popular honors—the high, the crowning reward of a long life of public service—yet lingering freshly on his brow. The gift which you have conferred on him, was but the passport to all time. The Republic has lost a President—but HARRISON is immortal.

To us, however, who remain the fruits of this visitation may not be unwholesome. The calamity which we deplore, is one which has been reserved for the present generation. The hand of Providence has never fallen upon us as a people, thus heavily before. The great and good men who have successively been called to preside over the affairs of this Republic, have, with only two or three exceptions, returned to their kindred dust; but the death of a President of these United States at any period of the administration of his high trust, is a circumstance which has no precedent in our history as a nation. It does not, however, become us to murmur or repine. We may lament over our national, as it is permitted to us over our domestic bereavements, because a reasonable grief is not inconsistent with a due submission to the will of HIM, who blesses while he afflicts; but it is not for us to gainsay the councils of eternity, or to rebel against the dispensations of that high and inscrutable power, which shapes the destinies of men and nations, according to its own sovereign and unquestionable will. It becomes us the rather to rejoice, that the blow under which our infancy would have reeled, has been graciously spared for the noon of our manhood, and the meridian of our strength. It deserves to be considered only as another manifestation of that superintending care which led our ancestors through the perils of the Revolution, and has since shown out in the darkest periods of our history, like a pillar of fire, to conduct this chosen people of God, toward the accomplishment of the high destiny for which they have been evidently reserved. If it has succeeded in humbling us again into the reverential posture which becomes an afflicted people, and gathering us once more, like our fathers, around the common altar of our country, it has accomplished much already. If it shall be instrumental in demonstrating the self-sustaining powers, and developing another of the latent beauties of our admirable but experimental system of government, it will accomplish still more. It has already taught the kings of the earth, in the universal swell of public sorrow which

has heaved the bosom of this nation, and drowned even the resentments of party, that the prejudices of royalty which surround and fortify their thrones, are but as dust in the balance, when compared with the unbought and unpurchasable affections of a free people. It will teach them, as we weather in safety the dangerous headland of a new succession, under untried circumstances, that no bloody convulsion, such as often attends the transfer of an iron sceptre, here awaits the demise of the popular crown. It will teach them, too, that the spirits of the honored and the trusted dead, still walk amongst us, to quicken, to animate, to counsel, and to direct—and uniting in undying counsel, the wisdom of the dead with the affectionate reverence of the living, it will bind the crown of immortality about the brow of our young Republic.

This noble discourse drew not only the official public at Harrisburg, but also “a number of persons,” says the *United States Gazette* report of April 26th (1841), “attracted as well by their admiration of the deceased as by the high character of the gentleman to whom the task of delineating his virtues and services had been assigned, from neighboring towns and cities to listen to the touching tale of the life and death of their beloved President.” “The Oration,” it continues, “was well worthy the exalted theme to which it had reference, and reflected the highest credit upon the head and heart of the talented and classical gentleman who pronounced it. Its delivery occupied an hour and three quarters, during which time, although a large majority of the audience, owing to the crowd were compelled to stand up or be very uncomfortably seated, a breathless silence and intense interest was exhibited from the first until the last. * * * The incidents were happily chosen, and dressed out in the beautiful garb of a chaste and classical imagination; the address was impressive and interesting in the highest degree.” To this may be added the estimate of a writer reviewing it in a Baltimore paper over a quarter of a century later: “A performance which has also found its way, as a subject of school declamation, into some of the leading colleges of the Union, as well East as West. That performance, which is now before us, conceived and executed as it is upon the model of the French Academy, is worthy of the

golden age of English pulpit oratory. There is nothing in the celebrated discourse of Bossuet, upon the death of Henrietta Maria, of England, to excel it in the lofty march of its periods."¹ It "is justly placed by the side of Lee's eulogium on Washington," says a writer in the *Pittsburgh Post*.²

¹ The *Chronotype*, Baltimore, June 27, 1868.

² June 13, 1872.

CHAPTER XI
EVENTS LEADING TO THE DISASTROUS WHIG CAMPAIGN
OF '44, WHICH CAUSE HIM TO ABANDON
POLITICS FOR A DECADE
HIS GREAT TARIFF SPEECH IN PITTSBURGH

1841

The delivery of Senator Williams' great eulogy on the late President was soon followed by the adjournment of the Legislature and the expiration of his term of service. His reputation as an orator led to demands upon him for "occasional addresses" from various quarters, one of them being a regular lecture course under the auspices of the Mercantile Library, of Philadelphia, in which served such men as Hon. J. R. Ingersoll and the famous Presbyterian divine, Albert Barnes, of the First Church. He was also in demand for the coming State campaign, in which the Whigs were to receive the first premonitions of disaster. It must be recalled that the Whigs were virtually pledged to restore the financial equilibrium of the country by a successor to the United States Bank, and that Mr. Tyler, who was put on the ticket as an anti-Van Buren or Calhoun Democrat allied with the Whigs, forthwith, on becoming Harrison's successor, vetoed the whole bank movement in all its forms and precipitated the resignation of all his cabinet except Webster. He thus alienated and greatly injured the Whig party and practically became a strict-constructionist Democratic President. The rise of Abolitionism in Whig ranks further weakened them and the fall State elections of 1841 showed great Democratic gains, Pennsylvania being among the States lost to the Whigs. Consequently, when the gradual reduction tariff of 1833 came to produce so little revenue as not to meet the expenses of government, as happened at this period, the

very existence of a protective tariff was threatened. Indeed, the Democrats, headed by President Tyler, demanded the cessation of protection in 1842 as a part of the spirit of the act of 1833, and consented only to the revenue tariff of 1842. All this had been rendered possible with still greater facility by an event almost contemporary with the death of Harrison, the retirement of Clay from his long career in the Senate, which dated back even to 1806, the very birth-year of Thomas Williams.¹

These events, which to Mr. Williams would be a series of both public and personal disasters, were not destined to be the only ones to him personally. For eight years—or since the great Whig uprising of 1834—he had borne in his own State the brunt of battle for a national Whig party, by both pen and voice, and the long continued struggle had either caused, or developed tendencies already existing to, trouble with his heart. This became so serious in the spring of 1842 that he was compelled to seek expert examination in Philadelphia in the person of none other than his old collegemate, Dr. W. W. Gerhard, who had already won an enviable reputation as a scientific medical investigator.² A more quiet life became absolutely necessary, while the trouble continued to require his physician's oversight during both that year and the next.³ Indeed, he always thereafter had to consider the threats which this organ made against over activity.

It was impossible, however, for Mr. Williams not to enter into the great Whig effort of 1843 to make another desperate fight, this time under the great Kentuckian, Henry Clay, and primarily for the existence of a protective tariff. He was one of those who organized Clay Clubs and was chairman of a committee of the one at

¹ Clay made his closing address on March 31, 1841, in one of the most profoundly affecting scenes ever witnessed in the United States Senate. See *United States Gazette* for April 2, 1841.

² For an account of Dr. Gerhard's relation to the profession in Philadelphia and elsewhere see "A History of the Medical Profession in Philadelphia from 1638 to 1897," by Burton Alva Konkle, the same being the original manuscript of nearly four-fifths of the history edited by Dr. Frederick P. Henry, Honorary Librarian of the College of Physicians, where this manuscript may be seen. P. 202.

³ His letters to his wife from Philadelphia during his trips to Philadelphia indicate the nature and seriousness of his trouble, which took the form of enlargement of the heart.

Pittsburgh which extended an invitation to Mr. Clay to visit their city on his return from his North Carolina trip. The invitation, which was written by Mr. Williams, is as follows:

"The 'Clay Club' of the City of Pittsburgh, understanding that it is your purpose to return by one of the Northern Routes from your projected visit to North Carolina, & desirous of testifying their regard for your person & character, have charged the undersigned with the office of writing you, in their behalf, to pay a visit to this place upon your homeward journey.

"The undersigned take great pleasure in performing the duty which has thus been devolved upon them. They are very sure that they only express the sentiment of a large majority of this community when they say that it would rejoice them greatly to take by the hand, here, in this home of the mechanic arts, the only truly practical Statesman, who, above all others, has been distinguished throughout his long & brilliant career, by his uniform & untiring advocacy of the interests of *American* labor in all its manifold departments, whatever may be the diversities of opinion which exist amongst us upon other questions of national policy, they are enabled to affirm, at all events, in relation to *this*, that the novel idea of the encouragement of manufactures by the reduction of wages to the European standard, or of sustaining this government by any other means than a tariff on importations regulated with a view to the protection of our infant arts, would find no open advocate here. They do not therefore hesitate in pledging to the Father of 'the American System' the cordial & general welcome which he has so richly earned for himself at the door of every working man in this country.

"The undersigned will not dwell upon the many other considerations which would render a visit from you particularly acceptable at the present juncture. Your name has come upon us, in the hour of our deepest gloom, to awaken anew the high hopes which animated us in the campaign of 1840. It has been adopted by the Club which we have the honor to represent from no merely slavish attachment to the individual to whom it belongs, but because it is regarded by them, in common with the great Whig party of the Union, as the impersonation of their most cherished principles & assurance of a fidelity which under no circumstances of trial or temptation will ever either disappoint or betray. They are now looking forward with a lively confidence to the era when the ascendancy of those principles shall be

again established, & adequate protection to their industry, the provision of a currency which shall facilitate all the operations of exchange & insure to labor its just reward, & a fair & equitable distribution of the proceeds of the public domain, among our debt-burthened, & credit-ruined States, shall be regarded as the settled policy of this government; & they would hail with high satisfaction the appearance amongst them of the individual to whom the country is now looking for the realization of the many hopes which were inspired by the election of the lamented Harrison."¹

This was dated on November 8, 1843, and the following reply, marked by him ("Private") came from Mr. Clay at his country seat, "Ashland," about a month later:

"Ashland 2d Dec 1843"

"My Dear Sir

"I think I prepared letters to yourself and the Comee. some weeks ago, but amidst the great extent of my correspondence, which is very burthensome, I am not sure that they were sent. I have therefore prepared others, which I now forward. You will perceive that I am compelled with regret to decline the invitation sent me.

"I am very glad to hear from you that the divisions which have unfortunately existed in Allegheny are yielding to a spirit of harmony, and are likely to be reconciled.

"Great injustice is done me at Pittsburgh in the opinion which you say is entertained there by some about my agency in the passage of the Compromise act. At the time of its introduction, the whole protection system was threatened with utter subversion, and the nation with civil war. Who produced that crisis? Not me; but Genl Jackson (whom Penna had powerfully contributed to elevate) He first seemed to favor and then was opposed to protection. He first encouraged and then denounced nullification. And I, who sought to save the Union from civil war, and the American system from destruction, by the Compromise act, have given dissatisfaction where Genl Jackson may yet be a favorite! Such is human justice.

¹ Copy among the Williams papers. This is evidently the public letter to Mr. Clay, as the latter's reply seems to imply a private letter from Mr. Williams in addition to this one. The Compromise Act is the tariff of 1833. The following incident is related of Clay by F. M. Simmons, Esq., of Swarthmore, Pa., whose uncle was a leading photographer of Philadelphia in Clay's day. Bishop Potter (of Pennsylvania) brought the great Kentuckian in one day to sit for his portrait. When all was ready he was asked if he had any preference as to position for it, whereupon he disclaimed any interest in the matter, adding, with a twinkle in his eyes: "You see, I am Clay in the hands of the Potter."

"At the very next Session of Congress, if the Compromise act had not been passed, the whole system of protection would unquestionably have gone by the board! did those who condemn me desire that?"

"The Compromise up to Dec. 1839 worked well. Its operation gave tranquillity to the Manufacturing interest, and would have been completely successful but for another measure of Genl Jackson—the destruction of the Bank of the U. S. and the disorders in the currency, which ensued. Beyond that period, it was the duty of a V. Buren Congress to provide, but it failed to perform its duty.

"I learn with surprise and regret that some of my friends at Pittsburgh do not concur with me in combining protection with revenue, but would prefer protection per se.

"It is manifest that the protection may be as adequate in degree, under the first as the second form, unless the point of absolute prohibition is reached.

"Now, the combined principle will unite the whole country, and may preserve our Manufacturing policy. The other principle would divide the Country, and might occasion the loss of all protection.

"What then is most wise and proper?"

"We ought to avoid ultraism.

"Ask Henry Baldwin, whose devotion to the Manufactures of the Country ought never to be questioned, what he thought of the Compromise, and of me in proposing it?"

"If Penna is wise, and will prefer measures to men, she will secure all her great interests. It was, in my humble opinion, the violation of that principle which ever brought them in hazard.

"I am, with great respect,

"Truly Your friend

"H. Clay"

"Thos. Williams Esq."

A few months later, namely in May, 1844, at Baltimore, the National Whig Convention formally chose Mr. Clay as the standard-bearer almost wholly on the financial questions, endeavoring to make them the sole issue, particularly the tariff phase. They made a mighty contest. In Pennsylvania the struggle to restore the tariff was particularly intense. The Clay Clubs of Pittsburgh and Allegheny called on Mr. Williams to make a keynote address which could be used all over the extensive

and Henry Baskin, whose devotion to the honorarium
of the Country ought never to be questioned, both as they
thought of the Compromise, and of me in proposing it?

If I am a wise, and will prefer the same to them,
she will receive all her great talents. It was, in my humble
opinion, the violation of that principle which was brought
them in regard.

I am, with great respect,

Truly Yours friend

Thos. Williams Esq

H. Clay

PART OF A LETTER BY HENRY CLAY ON HIS CANDIDACY FOR THE PRESIDENCY

Halfstone of original in possession of the Misses Williams, Philadelphia

1991 10/10/91

territory and population influenced by that city. Of all his speeches this was the most powerful and it was printed and spread broadcast over the West:

"You have done me the honor," he began, "of requesting me to address you on the subject of the protection of American Industry and its kindred topics—a subject which, above all others involved in the approaching election, is most vital, and ought to be most interesting to us, because it touches the well-being of every man, woman and child amongst us—and a subject, accordingly, upon which it is most important for us to be right, and upon which we can least afford to be wrong. I am fully aware of my inability to treat it as it deserves. Conceiving it, however, to be my duty to contribute any little aid of which I may be supposed to be capable, towards the performance of the great work of social regeneration in which we are employed, I have not felt myself at liberty to decline the invitation.

"This question is, however, so exclusively one of 'facts and figures,' is so broad in its details, and affords so little room for the embellishments of rhetoric, and the charms and graces of elocution, that I am constrained, for the sake of greater perspicuity and precision in its treatment, under the terms of your invitation, to depart, at the expense of some additional labor, from my usual practice, and to run the hazard of tiring my audience by presenting it in the shape of a Lecture to the consideration of those who have assembled to hear me.

"As I desire to be practical, I shall address myself more particularly to the effect of the Protective System upon the farmer and the operative, and endeavor to dispel some of the popular errors with which our adversaries have been so industriously, and to some extent, successfully, laboring to inoculate those two classes for the last few years. That they have been partially successful in those efforts is apparent from the fact that they are still existing as a party amongst us, and have even ventured to present to this community, as a candidate for the Presidency, an undisguised and unblushing enemy of the system by which Pittsburgh and Allegheny thrive, and our Farmers and Mechanics live. If a portion of our community were not laboring under some species of delusion on this subject, there would be but one party amongst us, and they would repudiate the nomination so made, and say, as one man, throughout the whole length and breadth of this country, 'we would as lief have ratsbane put into our mouths.'

"The right of protection rests on the reciprocal obligation of allegiance to the government under which we live. In return for that allegiance it owes to the citizen an ample security for life, liberty and property, and he is alike entitled to its protection whether either of these be invaded by foreign legislation, or assailed by foreign arms.

"If other nations would trade freely with us, and take in exchange for their products whatever we could most advantageously produce, without *taxing* us for the privilege with heavy burthens and restrictions, we might, perhaps, get along tolerably well, so far as the mere animal comforts are concerned, in periods of general public tranquility. If Great Britain, for example, would allow us to feed her immense and famishing population with the bread stuffs, and to supply her manufacturers with the raw material which she wants, and we can conveniently spare, upon the condition that she should fabricate for us whatever of manufactured articles our comforts or necessities might require, we might live in comparative ease and simplicity, but in primeval poverty, as a nation of shepherds and husbandmen, with plenty of liesure to stretch ourselves upon our mountains' sides, and wake the sylvan echoes with our pipes; and this would be regarded by Mr. Polk, and the rest of our cotton planters, and free-trade theorists as a perfect realization of all their dreams of arcadian innocence and commercial equality. Such a state of things would, however, be obnoxious to serious objections.

"It would, in the first place, involve a degree of dependence not exactly consistent with our dignity or security as a nation, and in the event of a war which would operate as an embargo upon our commerce, we might, perhaps, be found wanting in the means of supplying shoes, blankets and gun-powder to our soldiery, as has more than once happened already in our brief history as a people.

"In the next place, the immense distance which would interpose between the *producer* and the *consumer*, and the consequent necessity of a double transportation across the Atlantic, would be a serious drawback, and prove to that extent, a heavy *tax* upon the labor of both, which a good market *at home* would enable them to save. In this view it would be a losing bargain on both sides, and particularly to us, who would produce the heavier and cheaper article, as I will illustrate more fully hereafter.

"And so would it be too in the effect which it would produce upon the rational mind, by cramping and confining the energies of our respective populations to any one branch of industry,

instead of leaving them free as the wind to roam over the boundless and varied fields which are now presented for their selection. It would be a long stride backward in the direction of those arbitrary usages which, in some of the despotic governments of the old world, have entailed the occupation of the father upon the child through a countless series of generations. All this might suit a government of that sort very well, but would be ill-adapted either to the institutions of Great Britain or our own.

“But in the last place, it would be an infinitely worse bargain to a people with such a government, and such a country as ours. It would not merely arrest the developement of the national mind, and rob us of all that most distinguishes and exalts us as a people, but it would thwart and counteract the obvious high destiny of the magnificent country which has been committed to our hands—self-poised, as it is, in the midst of the ocean which washes its eastern and western shores—rent from the old world on either hand—overflowing with agricultural and mineral riches, and all the elements of commercial and manufacturing wealth, as though it had been intended by Providence to stand alone among the nations, self-sustained—dependent of all others—supplying every thing for its own use from its own capacious bosom, and opening a boundless field for every variety of genius and enterprize which our institutions are so well calculated to produce. In such a bargain, Great Britain would have nothing to offer which a bountiful Creator has not already laid at our feet, to indemnify us for the sacrifice of a single one of the many advantages which we enjoy—while we, on the other hand, have much which is essential to the prosperity even of her most cherished interests. Her uniform policy is to take from us only what she cannot produce herself. The same policy on our part would prevent us from taking any thing from her at all, and we should be the losers by any bargain for an exchange of products even upon equal terms.

“But Great Britain will make no such foolish bargain with us. She has her own agriculture to protect, and she understands her interests too well to barter away her independence for mere *bread*, which we might at any time capriciously withhold. She knows that if she were to unlock her ports to the agricultural riches of the western world her farmers would be swept down by the inundation, and her landed aristocracy—one of the main pillars of her throne—would be beggared. She does not believe in the policy of our Loco Foco brethren, of buying where she can buy the cheapest, when she can produce the article at home. She protects her agriculture, because that is the interest which

most requires protection with her, and she does it at the expense even of her own working classes. She excludes by a system of duties which is almost prohibitory every product of our soil, except the cotton which she requires for her manufacturer, and which she sends back to us, at an advance of 1000 per cent., to pay for her own labor, and she compels her starving operatives to eat the bread of her own farmers at a cost which is almost insupportable to them. She does not, however, neglect her other interests. Her ambition is to be the universal *workshop* of the world. Her policy is to sell to every other nation as much as she can, and to buy nothing from them in return except what she cannot dispense with. She has sent out her colonies, and extended her conquests over the whole globe for the mere purpose of giving employment to her commerce, and finding a vent for her manufactures; and, in obedience to this principle, she has so dealt with her foreign possessions as to place them upon a footing of entire dependence on the mother country, prohibiting their manufactures, draining them of their specie to support her laborers, and rendering them mere tributaries to the proud island from which her navies have gone forth for their subjugation. It was this selfish policy which constituted one of the first in the long series of grievances which led to the rupture with her American dependencies, which ended in their final separation. It was an expression of the great statesman, who has given a name to the city of Pittsburgh, that America should never be permitted, with his consent, to manufacture even a *hob-nail*, and it is a little remarkable that it was this same policy which, by draining the country of its circulating medium, occasioned in 1722 the first issue of paper money in our own State. It is this policy, however, which has made England what she is—which enabled her to subsidize the legions of banded Europe, and to bear upon her own mighty shoulders the burthen of a contest which for five and twenty years shook the world to its foundations. If she adopted it when we were mere colonies of her own, she is not likely to abandon it now for our advantage. She could not, even if she would, without repudiating her immense public debt. But she has no idea of any such thing. The notion of *Free Trade* sometimes *preached* by her economists, but never *practised* by her statesmen, is regarded by her as preposterous, and was so, not long since, pronounced by the Duke of Wellington himself, who denounced it as a mere *chimera*, and declared, most emphatically, that it never did, and never could exist among independent nations.

“What then are we to do under these circumstances? Our ancestors complained that in consequence of the policy of the

mother country, in refusing their exports, and suppressing their manufactures, they were left without employment, and drained of their specie to pay for British goods. The same difficulty still exists, and will continue to exist so long as we continue, in conformity with the advice of the *British* party in this country, to throw open our ports to the commodities of foreign lands, while their harbors are effectually sealed against us. We are now annually taxed for the support of foreign governments, to more than the whole value of our home exports, and more than five times the amount required for the maintenance of our own institutions, and if this policy is to prevail, we shall still continue in a state of worse than colonial dependence, and shall indeed have gained little by the separation.

“What then, I ask again, is the remedy? and what are we to do in order to give employment to our own population—to preserve a wholesome circulating medium amongst us, and to furnish a market for our own farmers?

“We have no resource but to create a demand *at home* for the surplus products of our industry by treating the foreigner as he treats us—shutting out his products, and diverting a portion of the agricultural labor of the country into other channels. We want, in other words, a home market which shall be convenient to us, and not subject to the tyranny of foreign legislation, nor the fluctuations of foreign trade.

“In legislating, however, for the protection of our own industry we stand in a much more advantageous position than England. The agriculture of our country, so far as bread stuffs are concerned, wants little or no protection from foreign rivalry. The cheapness of our lands, the inexhaustible riches of our virgin soil, and the bulky and massive nature of its products, are, in themselves, a sufficient defence in that quarter. There is no apprehension here of such an influx of foreign grain as will break down our agriculture. The protection which it requires is of a different description. We do not want food, as in England, to feed a starving population, but we want mouths to consume the surplus which would otherwise be either wasted or not produced at all, and the only way to create and multiply those mouths is by furnishing them with employment in some other department of industry.

“There is no other employment, however, than *manufactures*, which will answer the purpose—the pursuits of *commerce* themselves being but the medium of exchange between the producer and the consumer, and of course essentially dependant on the others for their prosperity.

“But amongst the different branches of the manufacturing

arts to which we may direct our attention, we must discriminate carefully between those which are adapted to our position, and those which are not. I take it to be a safe rule that, wherever an article is of indispensable use in war, or the materials exist amongst us for its advantageous protection, we are morally bound to employ them. It was not certainly for nothing that a benignant Providence has covered the surface of our country with forests, and fat pastures, and abundant waterfalls, and stored our mountains with the inexhaustible mineral treasures which have been sleeping and ripening for ages in their capacious wombs—ready to be drawn forth for our use—and we should be spurning the noble gift and counteracting the gracious design by refusing to employ them.

“But we are a young people, deficient in capital and skill, and above all—thanks to our broad and priceless domains, and free and scattered population—oppressed with no famishing multitude who are clamoring for employment and willing to work for a bare subsistence, and in many instances not even able to obtain that. The rate of wages is therefore too high in this country to enable us to manufacture in the first instance upon the same terms as in the over-peopled countries of Europe. But the Loco-Foco process of reduction is not the remedy. The genius of our institutions forbids it. The very nature of our government requires that the *laboring* man, so long as he is a *voting* man, should be, not a mere machine, to be fed like an ox or a steam engine merely for the purpose of extracting from him as much labor as his frame and sinews will endure—but an active, intelligent, thinking agent, who shall receive wages sufficient to rear a family of *freemen*, and enjoy liesure enough to make himself acquainted with those high matters in politics, and religion which he is bound to know.

“We cannot, therefore, compete, in the first instance, upon an equal footing with the rich and populous countries of the old world, and we must, accordingly, supply ourselves with many of the comforts, and even necessities of life, from them, unless we will consent to impose such a tax upon *their* labor as will enable us to enter the lists as a competitor with them, even for our own market, upon anything like fair and equal terms.

“And we must either do this, or make up our minds to get along without many of the comforts which we enjoy at present, from absolute inability to pay for them. It will not do to say that we have the products of our soil to offer in exchange. There is scarcely anything produced by us from that source, except the single article of cotton, which will be taken in that way, except under such an enormous rate of duty as amounts almost

to a prohibition, and even if they were admitted upon better terms, they are burthened with the cost of transportation, and have to encounter, when they arrive in the foreign market, the low prices, and the pauper labor of European husbandry. It is a fact—startling as it may seem to those who clamor so loudly for what they call ‘Free Trade’—that of not less than 844 millions of dollars worth of agricultural products drawn annually from our soil, not more than 70 or 80 millions, (including the article of cotton, which composes more than four fifths of the amount, and which is likely to be superseded also, at no distant day, under the fostering policy of the British government, by the growth of her own East India possessions,) is exported to all the markets of the world, while the remainder of our surplus is consumed at home by the four or five millions of our population who are engaged in manufactures, or other kindred pursuits! During the five years ending in 1840, the average annual export of cotton was \$64,233,225, while that of animals and their produce, and vegetable food, (inclusive of the article of rice, which was a large item,) amounted only to \$11,766,615, of which the paltry sum of \$1,474,719, went to Great Britain and Ireland, and but \$5,353,818 to Great Britain and all her dependencies! And it is a fact worthy of remark, that, on the single article of tobacco, of which the export in the years 1839-’40 averaged about \$9,222,146, a duty of not less than \$32,463,540, or nearly twice the whole revenue of the United States at that time, was levied for the support of foreign governments. Such is the beggarly amount which we are enabled to sell, and such the onerous conditions upon which we are allowed the privilege of trading with the jealous establishments of other lands, and for which we are to sacrifice the labor of our own citizens.

“There is then, obviously, no foreign market for the agricultural products of this country; and, of course, the farmer, as well as all the other industrial classes, can neither *sell* nor *buy* unless he has a market at home. Whatever he does buy, must be paid for in money, but without something to sell, and a market for its disposal, he cannot obtain the money for that purpose, and there would, indeed, be no money whatever in the country.

“It follows, therefore, as a matter of absolute necessity, that we must begin *at home*, and open a market there for the protection of our own labor, by fostering and stimulating our own manufactures, and thereby at once diminishing the number of agricultural producers; and multiplying, to the same extent, the number of mouths which are to be fed from the produce of the soil.

“It is perfectly apparent that the laborer who cannot find

employment elsewhere, must have recourse to the earth for a subsistence, and must become, himself, a tiller of the soil. It was the occupation of our first parents, and, when all other means have failed, the earth, which is our common mother, must support us all at last, until we descend again into its bosom from whence we came.

“But if the whole labor of the country is turned into that channel, the wages of husbandry, which are always low, will not merely fall to almost nothing, but there will be no vent for the over-production, and nobody to purchase from the farmer what every man is in possession of, and nobody wants; and, of course, no demand for labor at all. If every man in the community is to become a grower of wheat, there will be no market for the article at home. There will, of course, be no surplus produced, because there is no market for it abroad. The 791,545 men employed in manufactures, with their families amounting to at least four millions of souls, and consuming annually more than two hundred millions of the products of the farmer, thrown back, as they would be, upon the soil, (which is already burthened with 3,717,750 persons employed in agriculture in this country, to less than 300,000 in Great Britain with nearly the same population,) would add nothing to the existing product for the same reason; and an amount of labor producing annually more than 400 millions of dollars would be absolutely annihilated, and our national resources, and ability to purchase, diminished to the same extent—and all for the purpose of enabling us to sell less than nine millions and a half a year of all our agricultural products, except cotton and rice, to all the markets of the world!

“On these, and other grounds, then, it has been the policy of our government, from the beginning, to encourage the labor of its own citizens, by a tariff of duties on imports, so regulated as to discriminate in favor of such articles as can be most advantageously produced at home; while, at the same time, the burthen of supporting our government is taken from the shoulders of the people at large, and imposed upon the consumers of luxuries and the capitalists and laborers of other countries. This was the avowed policy of the first Congress which assembled under the new Constitution in 1789: it has been again and again affirmed and re-inforced, by every President from Washington down, with the exception only of General Jackson and Mr. Van Buren; and it is the doctrine of the Whig, or *American*, party of the present day. If it was right then, it cannot be wrong now.

“But the adversaries of the Whig party, those who claim to be, *par excellence*, democrats, faithful only to the *cotton-planting* interest, which is the only privileged class in the British ports,

and from which they have very properly selected their candidate for the Presidency, insist, that instead of encouraging the labor of our own country, we ought to go abroad, and buy where we can buy cheapest; that duties, if imposed at all, should be imposed merely for *revenue*, and without any *discriminations*, so that a pound of coffee should pay as much in proportion as a yard of broadcloth; and that a tariff of protection is a bounty paid into the pockets of the overgrown home manufacturer and capitalist, at the expense of the other branches of industry in use amongst us. This is the doctrine of JAMES K. POLK himself in his address to the electors of Tennessee; and it is this which is meant by the resolution on that subject which composes one of the articles of the political creed propounded for the edification of the faithful at the late Locofoco convention at Baltimore.

"It is perfectly obvious, from what has been already remarked, that a duty upon the importation of foreign goods which might be manufactured with equal facility in this country, is calculated especially for the benefit of the *agricultural* and *laboring* classes, and is precisely that sort of protection which is best adapted to advance their interests. To impose a duty on foreign breadstuffs merely, would not answer the purpose of the farmer, because he is beyond the reach of competition in that article, except, perhaps, in a highly inflated state of the currency, or on the occasion of an unusual diversion of labor to other employments, such as occurred during the progress of our public improvements, while a duty on the importation of foreign laborers themselves would be scarcely considered admissible by a party whose proverbial affection for that class has not permitted it to overlook their interests even in the concoction of its general political creed.

"The only feasible mode, then, of protecting the industry of the farmer and the laborer, is by the imposition of such a duty on the products of foreign industry, in such branches of manufactures, as may be advantageously pursued in this country, as will invite the capitalist to embark his resources in that way, by enabling him to meet the foreign article successfully in the home market, and to realize a reasonable profit from his investment. Much of the difficulty might, perhaps, be avoided by such a reduction of the wages of the American operative, as would place this important element of cost upon the same footing as in European countries, and that was the remedy suggested by Mr. Buchanan, in the Senate of the United States, when, in ignorantly assuming, that this great obstacle to cheap production was occasioned by an unnatural inflation of the currency, he indulged in the memorable exclamation—'reduce your *nominal*

to the *real* standard of European countries, and you will cover this country with benefits and blessings.' This process is a very simple one, no doubt, and might, perhaps, eventually succeed. It would, however, be a fearful experiment for a government like ours, and could only succeed by creating a class in this country like that which burdens the poor houses of England, and one which would be utterly unfit to exercise the elective franchise. But it is the policy of a mere bungler. The doctrine of the *Whig* party, and of all the truly enlightened Statesmen who have been called upon from time to time to direct the affairs of this government, has been to secure plenty of work and a high rate of wages to the operative.

"Let us inquire then how the Tariff policy is calculated to affect those two classes who are alleged by the Loco-Focos to be so especially oppressed by it.

"To the *moneyed* capitalist it can make very little difference how his resources are employed, provided he can use them to advantage. It is obviously his interest that the value of every thing else should decline, and he will, of course, hoard them, as many of our rich men are doing now, in order to avail himself of any approaching catastrophe—such, for instance, as the reduction of the Tariff—to command your labor or your lands at a reduced price, because money advances in value in proportion as every thing else declines. It is, however, the interest of the public at large that he should invest his means in some active employment which will create a demand for labor, and the moment that investment is made, his position is changed, and his interests become identical with those of the community around him. Now, a fair rate of duty upon any foreign fabric, and the removal of all chances of speculation which is effected by a wholesome Tariff, and its invariable accompaniment—general prosperity—is calculated to invite him into the manufacture and he invests his money accordingly. But why is he so invited? Is it for his own benefit? Men are generally prone to do that which is for their own advantage without any invitation. No: it is intended by the Legislature, and intended most particularly for the benefit of other and more important interests, and on this point a single illustration will suffice.

"Let us take, for example, the article of *iron*, which is one of prime necessity. Our country, and particularly our State, abounds in the materials for its manufacture. The ore and the fuel necessary for its fusion and for the generation of all the power which is required to mould it into its thousand various forms, are deposited side by side in our hills. In their original position, though of easy access, they are obviously of little or no value.

But even with this inappreciable advantage, that ore cannot be smelted and worked, even into its coarser forms of pigs and blooms and bars, at any thing like the price at which it may be fabricated at the mines of Sweden or Great Britain, for the reason that the wages of labor in those countries are scarcely a *third* of what they are here, and that labor is, moreover, the main element in the production of this most invaluable and indispensable of all metals. A little reflection will render it apparent to every one that the value of this, as of most other manufactured products, in all its stages, from the coarsest and most simple to the most elaborated and refined, consists almost exclusively in the value of the *labor* employed in its production. In its raw condition it is worth no more than the rocks in which it is imbedded. The labor of man is required to dig it out of the bowels of the earth, to carry it to the furnace, to dig or cut the fuel necessary for its fusion, to convert it into blooms, to hammer or roll it into bars, to carry it to the market, and thence to torture and to twist it into all its endless and diversified shapes of ornament and use. In all its forms, it is the result of pure *labor*. Every article which we use into whose composition it enters, from the plough-share down to the pen-knife, or the watch-spring, is but the practical embodiment and investment of the energies and the skill of the *working man*, and the duty which is assessed upon the importation of the same article while it adds a new item to our wealth as a nation by the absolute creation of a new value, what is it but a bounty upon our own labor—a protection to the *working man*? It is he who is protected in the first place, and not the *capitalist* who gives him employment, and even if, as is contended, the duty did come out of the pockets of the consumer, in the shape of an addition to the price, it is transferred to *him* in the shape of steady employment and an increase of wages. High profits on the part of the manufacturer will be sure to invite competition—the tendency of competition is invariably to bring down profits, while it stimulates the demand for labor, and of course advances its wages—and if the supply of labor keeps pace with the demand, it must be drawn either from emigration or from the pursuit of agriculture, thereby diminishing competition there—multiplying consumers, and of course enlarging *its* profits to that extent beyond any probable advance in the wages of husbandry itself.

“But there is another view of this subject which is not less striking and conclusive. The whole amount of capital invested in the iron manufacture, including woodland and coal in 1840, was estimated, in a Report made to the Home Industry Convention in New York, and based upon the census returns of that

year, at \$30,500,000. The annual product, or whole amount of wrought and cast iron made during that year was calculated at \$25,765,330. The number of men employed in the manufacture, including miners, &c., was 51,405, and the amount of wages paid for labor therein \$18,762,990, or about *three-fourths* of the whole product—leaving about *seven* millions of dollars, or about 23 per cent. to the employer for raw material, interest on capital, wear and tear, superintendence and losses on sales, and putting into the pockets of the working man 77 per cent. of the whole gross amount, for his labor.—But the labor and skill, which are the capital of the working man, and which are capable of earning nearly 19 millions of dollars per annum, are surely equal to the investment of at least 100 millions by the *operatives* themselves, and shows most conclusively that *they* are the parties interested in the protection—that they are indeed the very *capitalists* themselves, with this difference only, that *their* investments are not *fixed*, but are in a condition to be withdrawn without loss, whenever they think proper to transfer them elsewhere.

“Such, then, being the operation of the Tariff upon the *working men* in our manufactories, let us inquire in the next place how it affects the other departments of industry, and particularly the farmer, who is alleged by the Locofoco editors and orators to be taxed so oppressively to pay for all this American labor.

“The establishment of a manufactory of any description necessarily furnishes employment to a very considerable number of hands. I would not pretend to conjecture the number of individuals who are employed in the numerous establishments about these cities which are concerned in the manufacture of iron, cotton and glass alone. They amount, however, to at least 5000, and including their families, who are dependent on their labor, would number, no doubt, from 15 to 20,000 souls. All these people must, of course, be fed, and they are fed—not upon the brown bread of the starving operative, or even the happier peasantry of Europe—nor upon the mere vegetable diet of the miserable Hindoo, which Locofoco philanthropy would substitute in this country for the advantage of the laborers themselves—but of all the abundance which a bountiful soil can supply. Here, then, is a high price and a ready market created at once for the products of the farmer, and here, therefore, are a sufficient stimulus and reward for his industry. If any farmer in Allegheny county is disposed to question the importance of this interest to himself, let him contrast his condition with that of his less fortunate rival, who by his remoteness from this scene of busy industry, is deprived of the advantages which it affords. Let

him refer to the variety of agricultural products which he can sell, of a nature either so bulky or so perishable that their transportation to any considerable distance is entirely out of the question, and let him advert to the prices of produce and the comparative value of lands near to, and remote from these cities, and he will see the value of a convenient home market, and the advantage of selling his grain here, instead of sending it to Europe, to be exchanged for foreign manufactures.

“But it is not merely the operatives in our manufactories who look for their supplies to the same quarter. There are other interests without number created by and dependent on our manufacturing establishments, which contribute to swell the population and increase the wants of a community like ours. The laborers in our establishments have other wants than those of the belly. They require clothing as well as food. Hence the tailor, the hatter, the shoe-maker, and lastly, the merchant, who is but the factor, or middle-man, between the producer and the consumer. They want houses to live in, and so too do the mechanics and merchants whom they employ; and hence the carpenter, the lumber-man, the brick-maker, the brick-layer, the stone-mason, the plasterer, the paper manufacturer and paper-hanger, the locksmith, the manufacturers of hinges, and bolts, and screws, and glass, and the chair and cabinet-maker, the tin and copper-smiths, and the fabricators of all the several tools and utensils used in the various trades and occupations of life. They want books, too, and newspapers for the instruction of themselves and their children, as well as the grosser food which must sustain their bodies. And thus it is by the aggregation of all these individuals and interests—wants multiplying population and population in return re-acting and creating new wants, only to react again in the opposite direction, that a large and prosperous community is formed, resting upon the substratum of manufacturing labor, and presenting an inexhaustible and ever increasing demand for new labor and for the products of the soil. And the result of this prosperity is soon discovered in the new demand which it creates, not merely for the comforts, but the luxuries of life. Prosperity invariably engenders wants which are purely artificial. In the train of riches follow servants, and jewelry, and equipages without number. The carriage-maker finds employment for his skill in the most expensive and elegant of his fabrics, as well as in the coarser and more clumsy vehicles of agriculture and commerce. The farmer is provided with a market for his horses, and for the provender with which they are sustained. There is nothing within his powers of production which he cannot sell, and thus it is that he is not less interested

in a Tariff upon manufactured articles than the laborer himself, and far more so than the manufacturer.

"But it is objected that the duty imposed on the imported article is so much added to the price, and therefore levied from the consumer, for the benefit of the manufacturer, and is accordingly so much of a tax paid by the farmer and the operative for the support of a particular interest.

"To this I answer, in the first place, that if the result be, in fact, an increase in the price, it does not by any means follow that the manufacturer is the gainer. The necessity of protection pre-supposes that the article cannot be produced here in the first instance as cheaply as abroad. If the increase were mere *profit*, and that profit of course unreasonably large, it would soon have the effect of attracting an amount of capital and competition which would bring it down to a level in that particular with other departments of industry, through the tendency to equalization, which is as inevitable and uniform as the same law in the motion and gravitation of fluids. The increase, if any, in the price of the article, enures in a great measure to the benefit of the laborer, and consists of the difference between the value of labor in foreign countries and at home, and by consequence to the advantage of the farmer himself.

"Taking it for granted, then, that there is such a difference in the price, the next inquiry would be, is it really a tax on the consumer?

"The simplest mode of testing this question is by the inquiry how the farmer or laborer would buy the foreign article at all without a market for his products? Destroy the *home* market, and where is he? He has, of course, no means of purchasing but by an exchange of products. But he cannot make the exchange with the foreigner. No matter how cheap the fabric may be, he cannot buy it, because his products are saddled with a prohibitory duty in foreign ports, and the foreigner will not of course receive them in payment. If he goes to the merchant with them, he will be told that the article which he wants to buy is imported, and can only be paid for in ready money, and he is therefore denied the indulgence of some comfort to which he has been accustomed. It is of no importance to him that the article is cheap, provided he is unable to buy it. And yet such is the inevitable consequence of the destruction of the *home* market. Would it not be better for him to pay a little more for the article to the domestic producer, when he can pay for it in the produce of his own labor at a price which will more than indemnify him for the difference—to buy at \$1 when he can pay with a bushel of wheat, or a day's labor, than to buy at 75

cents, when it requires two for the same purpose? The most of those who hear me are old enough to recollect the period, when under the operation of a low Tariff, ranging from the close of the war down till the year 1824, the farmer could neither sell nor exchange his products for the articles which he wanted—when his wheat was rotting on his threshing-floor for the want of a market, and his family obliged to manufacture their own raiment, and to dispense even with the use of the tea and coffee to which they had always been accustomed. What did it avail him then that prices were low, though his granaries were bursting with abundance? The whole amount of our exports, as I have before remarked, exclusive of manufactured goods, and including the article of cotton, which comprises more than three-fourths of the whole sum, is at the present day only 82 millions of dollars. The amount of the same articles consumed by the manufacturing State of Massachusetts alone is more than 42 millions. Here then is a home market in a single manufacturing State, with a population of less than three-quarters of a million, for more than one-half of all the agricultural exports, including the article of cotton, to all the markets of the world; and if you deduct the cotton and rice which our farmers cannot produce, perhaps more than treble the whole amount which we sell annually to those foreigners, about whose interests our Loco Foco brethren are so tender. Our annual import of foreign goods is about 100 millions of dollars. The amount of capital invested in manufactures and the mechanic arts in this country is about 367 millions, of which the annual product is estimated to be over 400 millions of dollars. Strike down our manufacturing system, and in order to enjoy the same amount of comforts as at present, we must import what we now fabricate, or in other words, add 400 millions to the amount—making in all an aggregate of 500 millions! But how is it possible for us to pay for such a vast amount with only 82 millions of exports? We cannot do it, though we mortgaged our farms and our houses, as many an unfortunate man has done, to buy foreign merchandise. We must be drained of our specie, and be content with less than one-sixth of the comforts which we now enjoy—wear one coat where we now wear six, and use one pound of coffee where we now use the like number. The surplus of the agricultural products of this country, (which are now estimated at 844 millions, and are yet far short of our powers of production,) instead of being exchanged with the manufacturer and the mechanic for the 400 millions which they now produce, would sink in value to almost nothing, because the men who now consume them would, from necessity, be turned into

producers—so as to destroy the market entirely, as has more than once happened in the history of this country, and in the end, to *compel* the farmer to become his own weaver, and tailor, and shoemaker, without the skill or ease which a proper division of labor would ensure. Are the farmers prepared for such a state of things as this? Would it not be better for them to pay a little more for the domestic article, than to dispense with it entirely, for the sake of finding a ready market and greatly increased price for their own products in return?

“It has been ascertained from the late Census, that there were in the United States, in 1840, 791,545 persons employed in manufactures and the mechanic arts. Allowing to each of these a family of three individuals only, we have 3,166,180 persons dependent for their subsistence upon this branch of industry. Each of these persons, it is calculated, will consume, of the products of the soil, not less than 12½ cents worth per day, making for the whole year, \$144,456,962. By the like computation, the *iron* business alone, allowing one more individual to a family, because it employs none others than able-bodied men, would consume, of the bread stuffs of the farmer alone, \$11,726,720 per annum. But to come down to our own State, where we have some curious statistics on the same subject.

“The annual product of the manufacturing industry of this State, in 1840, was estimated at upwards of 44 millions, and of this, the article of iron alone was computed, in 1842, at \$9,804,930. There were at that time in Pennsylvania 210 furnaces and 177 forges, rolling-mills, &c., producing 178,371 tons, and employing 16,664 persons with families, amounting to 82,350—in all nearly 100,000—consuming 2,450,531 bushels of grain, and 10,380,396 pounds of beef and pork, valued at \$2,669,443—and of hay and straw \$485,000—making a total of \$3,154,443, without including smaller articles.

“The same process of computation might very fairly be extended to all the population of our two cities and their environs—amounting to at least 50,000 souls—because, although a portion of them may be engaged in commerce and other pursuits, they are all gathered here and sustained by, and dependent on our manufactures, which are the very life-blood of our communities.

“But supposing that our farmers *could* find a market abroad for all that is consumed by this immense and increasing manufacturing interest, and could, moreover, purchase the products of *foreign* manufacturing labor at a less price than they can be furnished for at *home*, it is still worthy of the inquiry, whether they would not be the losers by the operation.

“For the purpose of illustrating this question, we will take the article of wheat, which is the principal staple of the northern States.

“Suppose that Great Britain would agree to throw open her ports and to admit our wheat free of duty, upon the terms suggested at the outset of my remarks. The average price of the article throughout the world may be assumed to be about one dollar per bushel. In Southern Russia and Central Poland it can be grown for from 30 to 50 cents, delivered at Odessa and Dantzic for 70 or 80, and then shipped to England and delivered there for some 20 or 30 cts. additional. It is to be remarked, however, that while the products of manufacturing industry are light of carriage, and of great value when compared with their weight, the products of the soil, on the other hand, are almost invariably bulky and expensive in their transportation, insomuch that a yard of broad cloth, costing five dollars, can be transported across the Atlantic, and far into the interior of our country, for less than *three* per cent. on the cost, while a bushel of wheat, sent back to pay for it, would be loaded with charges, at least equal to one *hundred*. The effect then would be precisely this. The value of wheat here would be regulated by the price which would be ruling, for the time being, in the British market, and our farmers would receive that price, with the cost of transportation off. If, for instance, it should cost fifty cents, as it certainly would, to transport it to Great Britain, and wheat were selling there at \$1.00, it would be worth precisely fifty cents here. If any man is disposed to question this, let him take the market value of flour, or any other article in our eastern markets, and then inquire what it is here, or at any place west of us, and he will find the difference to be precisely the cost of transportation to those points, which will depend, of course, on the comparative remoteness of the producer from his customer. The tax, then, upon the transportation undoubtedly comes out of *his* pocket, as does, upon the same principle, the amount of duties levied upon our exports in foreign countries. Every farmer who lives at a distance of thirty miles from Pittsburgh knows, and sees, and feels this whenever he brings a load of produce to our market. He is at the expense of bringing it to market himself, and gets no more for it when it is here than his more fortunate competitor, who lives within the sound of our Court House bell. The latter, however, has the same advantage in having his market at his door, as we propose to give the American farmer at large, by furnishing him with a market in his own country.

“Our farmers, then, under the operation of this free-trade system, could realize about 50 cents a bushel for their wheat. The foreigner, however, on the other hand, has the command of our market, and may add the charges of transportation to the price unless there should be some competitor *here*, as our farmers would have in England, to keep down his price to the rates of his own market. Three per cent., however, would be a mere trifle, which he could very well afford to lose. But the question with the farmer would be, not what he would have to pay for the article *in money*, absolutely, without reference to the price of his own products—but what amount of those products, or in other words, what proportion of his labor would be required in the exchange. If a duty of 40 per cent. were imposed on the yard of broad cloth, costing five dollars, for the purpose of protecting the domestic manufacturer, and that duty were added to the price, it would make the cost of the article to the farmer nominally *seven* dollars instead of *five*. But it does not follow that because the nominal price is advanced, the farmer is paying any more, in effect, than he was paying before. That will depend entirely upon the value of his products, or how much of them he is obliged to give in exchange. If, for example, he gets but 50 cents a bushel for his wheat from the foreigner, it will require ten bushels to purchase the yard of broad-cloth; whereas, if through the operation of a Tariff, he is furnished with a ready market, at his own door, at the supposed British price of one dollar, he is saved all the cost of the transportation to a foreign market, and enabled to purchase the domestic article at the advanced price of seven dollars, for just so many bushels of wheat, being a little more than two-thirds of what he would pay to the foreigner for the privilege of buying at what is called the cheapest market, and buying for *five* dollars instead of *seven*. It is apparent, then, from this illustration, that the *home* market is always the cheapest market to the agriculturalist, and to him particularly, because of the bulky nature of his products, and it is for the same reason, perhaps, that those countries which are strictly agricultural are almost invariably poor.

“But it is not true that the cost of the article is even nominally enhanced to the consumer, by the amount of the duty. On the contrary, the whole experience of the country proves that the price is almost invariably reduced by the competition which is enlisted, and the skill which is developed, by the protection afforded by the government. There are a thousand familiar instances wherein this fact has been strongly illustrated. In the article of cotton fabrics, for example, there has been a

progressive decline, in the face of a high Tariff, in some cases even to about one-sixth of the original value of the article, and there are some instances wherein the cost of the article has actually fallen below the amount of the mere duty itself. The duty on coarse cottons, imposed when they were worth 20 cents, is 8 cents per yard: the article can now be bought for 6. In like manner, the duty on window glass, imposed when the article was worth \$12 per box, is \$4. The article can be bought for \$2.25. The act of 1842 raised the duty on crockery ware from 20 to 30 per cent. It was followed by an immediate decline of nearly 10 per cent. on the article in England, and the consequence was a decline of *two* per cent. here under the increase of duty, instead of an increase of 10 per cent., as the Loco Foco Free Traders would lead you to expect. And yet it is alleged that the duty is so much added to the price and paid by the consumer!

"The causes of the decline are obvious. So long as the foreign manufacturer has the control of our market, he regulates the supply by the demand, and is thus enabled to keep up his prices to such a height as will enable him to realize a large profit on the article. As soon, however, as a little competition springs up at home, he is obliged to reduce his profits, because the supply begins to outrun the demand, and prices must necessarily decline in an overstocked market. If we could buy at the mere cost of the manufacture abroad, the case would be different, or if we could keep the foreigner here up to his home price, the domestic producer might in many instances get along without protection. But he is subjected to an unequal contest, for the very reason that the moment he throws his goods into market, the foreign article goes down.—The producer of the latter can get along with smaller profits, on account of the superior abundance and cheapness of capital, and he will even submit to a loss for the purpose of prostrating the home manufacturer, with the prospect of indemnifying himself by a subsequent advance, after he has accomplished that object. The very thing was done after the late war, when the British manufacturers flooded us with 150 millions of their goods in a single year, and it was remarked by Lord Brougham, in a speech made in the British Parliament about that time, that 'it was well worth while to incur a loss upon the first exportation, in order by the *glut*, to stifle, in the cradle, the rising manufactories in the United States, which the war had forced into existence, contrary to the natural course of things.' And this is a very sufficient reason for continuing the duty on some articles, which cannot

possibly be manufactured cheaper any where than in this country.

"It is perfectly obvious, then, that the farmer is not even taxed in the smallest amount, while he is so greatly advantaged by the protection extended to the manufacturer.

"But he has other interests than those which have been already enlarged upon, in this question. He is not merely furnished with a market for his bread-stuffs, but he supplies the fuel and the raw material, (which is always, necessarily, either a mineral, or vegetable, or animal product, and, of course, drawn either directly or indirectly from the soil,) for almost every department of manufacturing industry, and he has not himself been overlooked in the distribution of duties under the Whig Tariff of 1842, for the support and encouragement of American labor. For the purpose of showing how far his interest in the protection of the manufacturer extends beyond the consumption of bread-stuffs by the laborer, let us look for a moment into one single department—the manufacture of woollens.

"According to the best calculation, it is supposed that there are about 34 millions of sheep in the United States, worth, on an average, about \$2 a head, and yielding about 90 millions of pounds of wool, worth, at 30 cents per lb., about 27 millions of dollars. These sheep at three to the acre for summer and winter, would require 11,333,333 acres of land for their support, which, at \$12 per acre, which is considered a fair average, would be worth 136 millions of dollars. To manufacture this clip of wool will require about 45,000 hands, who with families averaging three persons each, and amounting in all to 180,000, at a consumption of \$25 per annum each, would require \$4,500,000 worth of agricultural products for their support, which, at a net yield of \$2.50 per acre for the market, would require 1,800,000 acres of land, worth, at \$12 per acre, \$21,600,000. The capital invested, then, by the farmer in this business alone is about 225 millions of dollars, and the annual value accruing to him, about \$31,500,000, while the capital invested by the manufacturer himself in buildings, machinery, &c., to work up the whole annual product would not perhaps exceed 45 millions, or about one-fifth of that of the agriculturist! Who, then, is the party interested in the protection of wool and woollens? The manufacturer or the farmer? I put the question to the farmers themselves. They are now realizing high prices for their wool under the operation of the Whig Tariff of 1842; and I am informed that in the neighboring county of Washington alone the crop of the present year will be worth upwards of \$300,000. Do they not see, then,

who are their real friends? Will they trust their interests in the hands of a Tennessee Cotton Planter, who, with an instinctive abhorrence of sheep, as invincible as the repugnance of his party to the innocent *coon*, and a horror of all wool, except that, perhaps, which grows on the heads of his own slaves, has expressed the opinion in Congress that 'foreign wool ought to come in free of duty,' and who, accordingly, as a member of the committee of Ways and Means, concurred in reporting a Bill, in 1833, for the reduction of the duty on woollens, which would have exterminated the whole wool bearing tribe, if it had not been arrested and strangled by the commanding genius of the great Kentucky Statesman? Surely they will not be guilty of this monstrous folly, and still more monstrous ingratitude.

"Having now disposed of the farmer, let us turn once more to the operative.

"You are all aware that a studied attempt has been made, and persisted in for years, by the Locofoco presses and orators, to poison the mind of the laborer, and to prejudice him against his employer, by contrasting his condition with that of the capitalist, and drawing invidious distinctions between the rich and the poor. The resort to such an argument as this is only another evidence of the contempt which is felt for the understandings of the working classes on the part of those who use it.

"The men who talk and write thus are most generally those who perform no labor themselves, and their very language implies that they *do* recognize a distinction between those who labor and those who do not, by no means flattering to the former. The Whig party do not admit any such distinction. They consider all kinds of honest labor as equally honorable, and they recognize the sentence imposed upon all mankind in the persons of our first parents, as conveying an injunction upon all their posterity to earn their subsistence by the sweat of their brow. They regard nothing as dishonorable but indolence and vice.

"We live in a country where there is, happily, no privileged class, and where the parcelling out of the accumulations of a life of successful industry or enterprise among the children of the possessor, without regard to any distinction of either age or sex, renders it impossible that ever there should be. All wealth which is not unjustly acquired is the legitimate product of *labor*, connected with superior skill, or prudence, or sagacity, on the part of the proprietor, or of those from whom it is derived. To wage a war, then, upon it, is to assail the laboring man in the tenderest point, by dealing a blow at the acquisitions of honest toil, and taking away all inducement to industry and

sobriety. Our common destiny is labor, and there are few amongst us who are able to live without it in some shape or other. But if we are to be made only the objects of suspicion, and dislike, and invidious comparison, the moment when, by a life of industry, we may have acquired a decent competence for our support, we must be content to remain in the condition of the hopeless serf, who counts, with a heavy heart, the wearisome hours of unrequited toil—but on whom the blessed sunshine of heaven sheds no joy, and to whom the darkness of night brings no reprieve. Such, however, is not the feeling of the working man in this glorious land. The future is always bright before him, so long as he can find ample employment and reasonable wages. Dependent only on the wealth-creating power of his strong and active sinews, which are *his* capital, he labors cheerfully, with the prospect of earning for his family a sufficient maintenance, and for his old age a comfortable and honorable repose. He knows that in the mutations of society which, in this country, is ever whirling and eddying like a boiling cauldron, the poor man of to-day is likely to be the rich man of to-morrow—that the accumulations of years of patient industry are almost certain to be squandered in an hour, by the pampered, and corrupt, and improvident heir—and that the next turn of the wheel of fortune will probably bring him to the top. He has no occasion, therefore, to envy the riches of another. He knows they are but temporary, and that he is as likely to be the successor as any body else. If any man who has resided here for twenty or thirty years, will look back for a moment over that period, he will find ample illustration of this in the fact, that the children of those who were then affluent are now poor, while the wealth of these communities has found its way into the hands of those who have been the architects of their own fortunes, and have built them up by the labor of their own hands. If it were not invidious I could point out individuals of this sort, who are now denounced as ‘nabobs,’ and ‘aristocrats,’ and ‘rag barons,’ by these pretended friends of the poor, merely because they have not been so unfortunate as to continue in that condition. The truth is, that the policy of these furious republicans, is to render all men *equal*, by keeping them all *poor*, instead of rendering them all equal, by making them all *rich*. Their process is to level *downward* instead of *upward*, by cutting off all who are *tall*, instead of stimulating the growth of those who are *humble*. They love the poor because they have *votes*, and are ever likely to be in the majority. If they should ever get into the minority, through the benign operation of Whig principles,

which look not to especial legislation for the benefit of the poor, or of any particular class, but to such legislation as will *leave no poor* as the subjects of their compassion, their sympathies will probably be turned in the opposite direction. My desire, and that of the Whig party, is to see every man rich. I care not how many there are amongst us who are able to ride about in their carriages, and live without labor, provided they spend their money freely and give employment to those who are less fortunate than themselves. I have never been, and never expect to be, in that condition myself, but I know that where wealth is generously poured abroad, it fertilizes like the dew of heaven, and some of it is sure to find its way into the pockets of every industrious man. I have my interest in it too, as a professional man, because I know that when the working man becomes comfortable, his first ambition will be to have a house and lot of his own, and he will probably call on me to look into his title—a favor which I am old enough, now, to esteem as a little more substantial than any vote he could give me.

“But there is another view of this question which requires to be further enlarged upon. The main object of those incendiary politicians who take so much pains to render the poor man discontented with his condition, and to stimulate an unworthy feeling of hostility to his employer, is to induce him to cast his *vote* in the opposite direction. And this is the true secret of all the denunciation which is so freely poured out upon the manufacturer. They know very well that capitalists are timid—are essentially conservative in their opinions, and look for nothing so anxiously as for stability and uniformity in the operations of the government; while they, on the other hand, find their account in frequent convulsions, because they have everything to gain, and nothing to lose by them. They regard the capitalist, therefore, as the enemy of the party of *movement*, and progress, and *experiment*, and they accordingly visit him with the regular diurnal storm of their displeasure, and represent him as the tyrant and the oppressor of those whom he employs.

“It seems to me to be nearly a self-evident proposition that the interests of the *employer* and the *employed* are, for the most part, identical. It will not, at all events, I suppose, be disputed that it is *capital* only which can give employment to *labor*. Suppose, for a moment, that all the resources which are now embarked, in this neighborhood, in the prosecution of manufacturing enterprise, were suddenly withdrawn. What would become of all this population—of the robust men, with wives and children depending on their labor—of the boys and girls

who are now earning high wages for the support of indigent parents—and even of you and me, who have never labored in that way at all? Why, a pestilence could not more effectually depopulate our cities. The morrow's sun would find your houses desolate. The silence of death would hang like a pall over our once busy, but now deserted seats of industry. The spider would weave his web in your tenantless dwellings: the bat would flit through the long corridors of your churches, and the owl would sing his watch-song upon the turrets of your factories. This is no fancy picture. The stout and willing arms of the working man would avail him nothing without employment, and every other interest would tumble into ruins.

“The hostility which has been proclaimed against the capitalist, in the same manner as the war-cry of ‘war to the palace, but peace to the cottage,’ which intoxicated the multitudes in France at the outbreak of the revolution, but ended in desolating the hearth of the poor man himself by the terrible conscription, proceeds upon a false notion of the relation between capital and labor. It is not by any means true that the laborer is the *slave* of his employer. He stands upon the same platform entirely. The wages which he receives are in virtue of a contract entered into between two men, who are, as God made them, in all respects perfectly equal, and are but the *price* of the labor which the operative bestows. The whole transaction is but a fair exchange of equivalents, in which the labor of the operative is just as important to the capitalist, as the money of the latter is to him. If there be any difference it is in favor of the working man, because he may withdraw his services at any time without loss, while his employer is tied down by his investment to the trade and business in which he is embarked, and cannot afford to stand idle without a heavy sacrifice. Labor, indeed, is but the handmaid of capital. Though it be the creator of wealth, it can produce nothing unless it is set in motion through its agency; as capital, on the other hand, can produce nothing without labor. They are natural allies, and not enemies. When united, as they ought always to be, for the security of both, they are capable of achieving wonders, and he who would sever and divide them may be safely set down as the enemy of both.

“There is yet another fallacy, however, which it becomes me to notice. I have occasionally heard some of these spurious friends of the working man commenting on the wealth-creating powers of labor, and from thence most sagely inferring that all its products were the rightful property of the working man, and all the profits of industry ought to belong to him, and no part

thereof be permitted to go into the pockets of his employer. 'Look at all these fine houses,' I have heard an imported Loco-foco stump orator and demagogue exclaim, 'they are your property, for they were built by your labor.' All this is very specious and flattering, no doubt, and it is intended for that purpose. But it is as hollow and sophistical, in point of logic, as it is pernicious and abominable in morals. These reasoners forget that capital must have its profits, which are the compensation for its use and risk, as well as labor, or it will not be employed, and that the value of the raw material which enters into the composition of the article, is a part of the expenditure of the capitalist for which he must necessarily be remunerated, while the wages of the laborer are, on the other hand, *his* share of the profits, which has the advantage, generally, of being paid in advance, although the manufacturer may actually sustain a loss on the article. It would obviously, then, be about as fair and honest in me to claim the title to an article after I had actually sold it for a fair consideration, and pocketed the price, as to assert that a house belongs to me because my labor, for which I have been paid, and with which I may have purchased another, may have been employed in its construction.

"It may be a subject of regret that every operative in our manufactories, and every journeyman mechanic, has not the means of embarking in business for himself, and thus realizing the full value of the article which he produces for his own use. But this cannot be without capital or credit, which is its equivalent, and which must be first earned, and may always be commanded by labor, and it may even be doubted then, whether, taking all the hazards into view, the condition of the laboring man would be certainly improved. It is the experience of every day, in this country, that while nine out of every ten of our manufacturers, owing either to mismanagement or to the uncertain and shifting policy of our Legislation, perish upon the shoals and breakers to which capital so employed is ever exposed, the industrious operative who is toiling from day to day in his humble sphere, with proper economy, almost invariably grows rich, and the richest amongst us are those who have begun in this manner. It is evident, therefore, that in this partnership and distribution of profits, the employed has, in the end, most generally, the lion's share.

"It may perhaps, be considered by some a work of supererogation to have taken so much pains to illustrate a doctrine with which this community, above all others, ought to be familiar, and upon which we are all supposed to be agreed. The time was,

certainly, and that not very remote, when there was no difference of opinion amongst us at least, and when all parties here were enlisted on its American side. A new state of things has, however, arisen amongst us within the past few years. The maelstrom of party politics has swept within its vortex all that was supposed to have been formerly settled. Men residing even in this community, and dependent for their bread, and that of their families, upon its prosperity, have been seduced by the demon of party, under the garb of a false philanthropy, into a state of unnatural hostility towards even the helpless beings who are dependent on them for support. The destruction of the American system has become the battle cry of a party which professes to be friendly to the interests of the American laborer, and strange to say, finds even an occasional advocate amongst them, and we are called upon again to rally the wavering, to reclaim the disaffected, and once more to do battle in its defence. It is true, that in this latitude the party has not yet generally ventured to throw off the mask, but the disguise is so thin, and the results of any accidental success on their part so apparent and inevitable, that I could not but entertain the suspicion that the whole difficulty here consisted in the fact that those who professed to act with the Locofoco party were not sufficiently aware of the extent to which they were interested in this question, and were really not Tariff men, and it is for that reason that I have thought proper to bring the whole subject in review before you. It is impossible, it seems to me, for any man who understands the interests of this community, and has those interests truly at heart, to vote with the party which is now struggling, under the auspices of another Tennessee leader, to regain its lost power.

“Let us examine, then, the respective positions of the two parties upon this vital question.

“The first assault, I believe, on the Tariff interest under the present organization of parties, was in the annual message of General Jackson to the Congress of 1832. Before his elevation to the Presidency, he had distinguished himself by two memorable letters—one to Dr. Coleman, the other to Governor Ray of Indiana, in favor of a *judicious* Tariff, which had, no doubt, a very potent influence in recommending him to the support of the manufacturing States. On his accession to power, however, in 1829, falling, as he naturally would do, under the influence of the planting States, his zeal for the Tariff began and continued sensibly to abate until the year 1832, when he boldly threw off the mask—openly expressed doubts of the advantages

of the system—insinuated that it was dangerous to the stability of the Union—alleged that it was only intended to be temporary—and insisted that it must be ultimately limited to such articles as are indispensable to our safety in time of war. This, then, was the signal for its overthrow. The party in power, ever obedient to the mandates of its political chief, who never tolerated resistance to his iron will, wheeled at once into line, and a bill was immediately introduced into the House of Representatives by the Committee of Ways and Means, consisting of Mr. Verplanck of New York, James K. Polk of Tennessee, and others, under the auspices of the administration, to repeal the existing Tariff, and reduce the duties on imported goods to an average of about 16 per cent. on the foreign valuation, so as to levy from that source no more than about twelve millions per annum of revenue. This bill, which would have stricken down at one blow the whole manufacturing industry of the country, was careering through that body with the speed and the terror of a storm-cloud pregnant with wrath and ruin. At the same moment, too, the Southern horizon was red with the beacon-fires of incipient rebellion: the flag of nullification had been already unfurled in South Carolina; a star of our glorious galaxy was about to shoot madly from its sphere, and the whole Tariff interest together with the Union out of which it grew, was on the verge of total destruction. At this awful moment, as on a former occasion of almost equal peril, when the stoutest hearts in the nation trembled for the issue, HENRY CLAY of Kentucky, ever attentive to the interests of the country, and justly alarmed at the danger which threatened our institutions, came forward with that great measure of peace and conciliation for which he has been so often and so ignorantly denounced. It was a crisis which required all the skill and energy of that distinguished man. But he was not unequal to the occasion. Surveying the whole field around him with the eye of a practised tactician—consulting all interests, and overlooking none, he threw himself into the midst of the contending hosts, and with one mighty hand held back ‘the architects of ruin’ in the House, while with the other he dispersed the overhanging clouds, threw the bow of the Compromise over our political firmament, and hushed the angry and agitated elements once more into repose. The question was not how much was to be *gained* for protection, but how much, under the circumstances, could be *saved*. With admirable address, he held out a cordial to the wounded *pride* of the South in the prospect of a gradual reduction of the duties for a period of nine years, while at the same time he secured and satisfied

the *interests* of the North by furnishing the home manufacturer an inclined plane, of long and easy gradation, down which he might glide until the public wants, or 'the long and fruitful chapter of accidents' should arrest his descent: and if all these failed—with a system of home valuations and cash duties, and a pledge that the government should be supported from that quarter alone, on which he might safely repose at the bottom. Never in the history of this country were the tact of the diplomatist, and the far-reaching sagacity of the experienced statesman more strikingly displayed than by Mr. CLAY on this occasion. He foresaw, with the intuitive perception which belongs to him in so remarkable a degree, that before the lapse of nine years of descent, the necessities of the country would require such an augmentation of duties as would effectually protect the home manufacturer. He was not mistaken. But, unfortunately for that country, the burthen of meeting the contingency which occurred as early as 1839, and, as Mr. CLAY had anticipated, before the manufacturer was injured, fell upon the administration of Mr. Van Buren, and that administration shrunk from the task of applying the remedy provided in the Act. Until that period the Compromise Act had worked well. Beyond, it was the duty of a Locofoco Congress to provide, but they were pledged to an opposite policy, and they went on borrowing money, and floundering through the multiplied embarrassments consequent upon increasing prodigality, and endless defalcations—plastering up the wound which they had made, and endeavoring to disguise from the people the astounding fact of a new national debt, until their star went down in 1840 into a sea of bankruptcy and ruin, wide-wasting and almost irremediable.

"Happily, however, for the country, in this last stage of national prostration and decay, the people discovered the evil and applied the remedy by bringing in a Whig administration, which, notwithstanding the unfortunate loss of its head, and the transcendant treason of his successor, has set the country again upon its feet. And yet these men have the unblushing effrontery to ask you to restore them to the power from which they were so justly expelled, only to undo the good which has been since done, and to send us once more headlong down the steep of national profligacy and ruin, over which the car of state was thundering in 1840, when it was arrested in the descent by the stout hands of an awakened and exasperated people. Give them another trial for four years, and you will have nothing left but to pick up, and reconstruct the shattered fragments in the bottom of the abyss below.

"The principle of the Compromise Bill has at length been carried out, except so far as it contemplated no future resort to the public lands as one of the sources of our public supplies. After a lapse of several years of suffering and insecurity, the country is now in the enjoyment of a Tariff amply sufficient, not merely for its support, but for the protection of its most cherished interests. For this measure which its necessities demanded at a much earlier period, we are indebted to a Whig administration, and to the first Whig Congress which has been assembled at the Capitol. It was, however, but the redemption of a high and solemn pledge given to the people in the campaign of 1840, and though we have been disappointed in other matters of grave interest by the shameless perfidy of one of our own servants, yet, if we had accomplished nothing else, we have done enough, in that one particular, to entitle us to the confidence of the nation, and to shew how much a thorough Whig administration is capable of doing for its interests. Under the auspices of the Whig Tariff of 1842, the business of the country has awakened from the torpor which had spell-bound all its limbs and members; the credit of the country has started again to its feet; the debt incurred by the previous administration has been placed in a train of rapid liquidation; the balance of trade has been shifted to our side, and the currency of the country has been improved by the consequent reflux of the precious metals upon our own shores.

"Is it necessary that I should undertake the proof of all this improvement? Has trade revived? Every man amongst us feels it. Every man who looks abroad upon our manufacturing establishments sees it. Labor has abundant employment already. British manufacturers and capitalists are coming over themselves and re-lighting the extinguished fires of some of our own establishments. Nothing more is wanted than the assurance, which the election of Mr. Clay will furnish, that this policy is to be permanent, in order to enlist millions of money which are now idle in the same way.

"Has the credit of the country improved? A few remarks on this point will not be amiss.

"When Mr. Van Buren came into office there was a surplus of 24 millions in the Treasury, and the revenues of the Government were more than sufficient for its reasonable support. They were not sufficient, however, for the extravagance and corruption of his official retainers. Living like an Asiatic monarch, and spending at the rate of 37 millions a year, he went out of office leaving as a legacy to his successor an incumbrance upon the

national inheritance of not less than 35 millions of dollars, including liabilities for outstanding appropriations, and that, too, after having consumed the 24 millions which he found in the Treasury on his accession. Add to this, also, that although Mr. WOODBURY, in December 1840, declared it to be his opinion that the revenue, under the existing law, would not exceed some ten or eleven millions of dollars, Mr. VAN BUREN and his party were not prepared to meet the crisis like men, but rather than pass a law for the increase of duties, slunk out of office like a set of poaching vagabonds, who had got there by fraud and been detected and dismissed, leaving the credit of the government so low, that while the British nation, with a debt of more than 4000 millions of dollars, was borrowing money readily at three or four per cent., an American agent, sent out to negotiate a loan by the succeeding administration, was ashamed even to mention his errand to the bankers of London and Amsterdam. It remained, therefore, for the new dynasty to provide the necessary supplies, not merely for its own use, but to pay the debts of its predecessor. They accordingly passed, at their first regular session, the Tariff Act of 1842, and the effect was instantaneous. The public credit rose at once to par; the revenues of the government increased to 27 millions of dollars, while the expenses were reduced to 21 millions; the amount of importations fell from \$127,946,177 in '41 to \$99,357,329 in 1842, and about 88 millions in 1843; while the exports in 1842, increased to \$104,117,969, and for the nine months ending on the 30th of June, 1843, to \$84,346,480. In the first six months of the last mentioned year, that Act brought into the country nearly 30 millions of specie; and, from a return made to the British parliament in July, it appears that it had reduced the exports of British goods \$6,000,000 below any year since 1833 while, at the same time, the importation of American goods had actually increased—so that they entertained serious fears that they would have to remit specie to pay for American cotton! Here, then, are the obvious reasons for the improvement of the currency which we have all remarked within the last two years. Instead of being drained of our specie, as heretofore, to pay for British goods, we have drawn it from abroad to fortify our own Banks, and the consequence has been a permanent and universal resumption of specie payments, and an appreciation of their issues to such an extent that the laborer and the farmer are no longer robbed of their earnings, by the heavy discounts to which they have heretofore been subjected. Such are some of the manifest blessings of the Whig Tariff of 1842, which JAMES

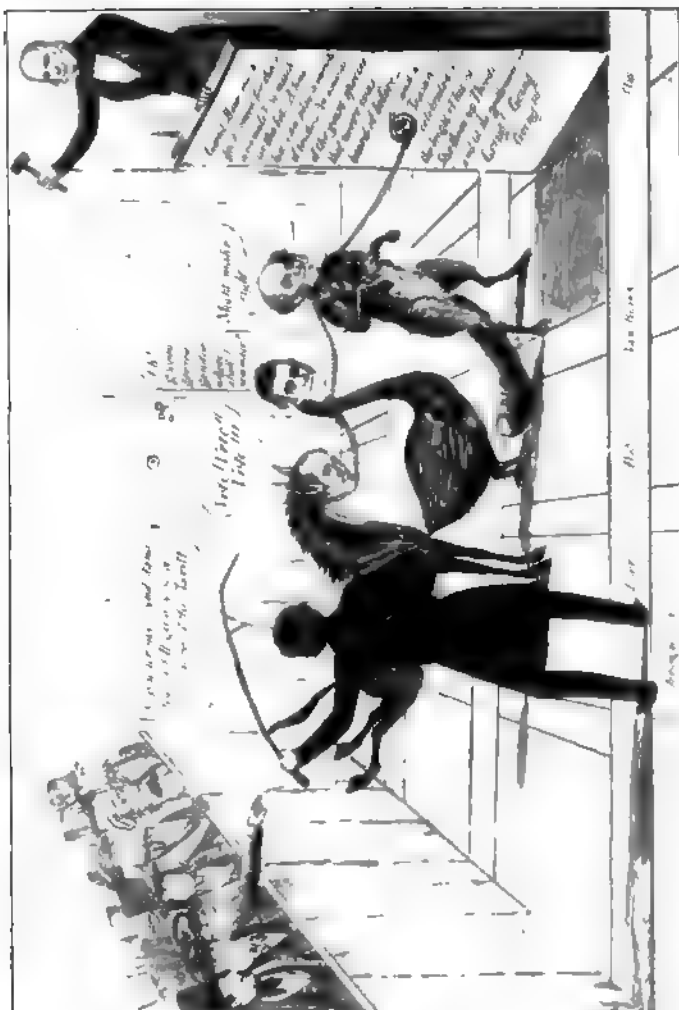
K. POLK and his friends—the allies and auxiliaries of the British Government in this country—are so anxious to destroy.

“It might be difficult to conjecture why it is that any party professing to have the good of the country in view, should set themselves to work to repeal so beneficent a law, unless prompted by the very demon of destruction himself. It is enough, however, that it is a Whig measure to insure its condemnation by our adversaries, and they have accordingly essayed to destroy it at the recent session of Congress, and would have succeeded but for the fact, that a few of them from the manufacturing States of New York and Pennsylvania dreaded the effect on the elections, and that the *Senate* was composed of a majority of Whigs. I happened to meet, during the pendency of Mr. Kay’s Bill in Congress, with an intelligent manufacturer of the other party, who had recently been on a visit to Washington. To the question, whether his party friends in the House were about to pass that Bill, he replied very frankly—‘I think not. They intended it, no doubt, but they are alarmed at the aspect of some of the recent elections: they know, moreover that the Bill will be killed at all events in the Senate, and I made free to tell them that Pennsylvania already looked squally, and that if they passed it and the Senate arrested and defeated it, it would look a good deal worse before the election.’ Under these influences, no doubt, some 20 or 30 of them from New York and Pennsylvania deserted their flag and voted, with the whole body of the Whigs, to lay the Bill on the table. They have, however, but postponed their felonious intent, and in order to leave no doubt of their ultimate purposes in the public mind, they have incorporated their doctrines (in studied obscure and ambiguous phrase, however,) in their Baltimore Resolutions, and placed in nomination for the Presidency a candidate who stands distinctly pledged to the Repeal of the Tariff of 1842, and who has distinguished himself only by his subserviency to party, and his implacable and deadly hostility to Northern interests. Are you prepared to forget yourselves, and your families, and the community in which you live so far as to vote for such a man? The Tariff is indeed the great question in this campaign, and the Whig party have accordingly selected, with unexampled unanimity, as the representative of their principles, an individual who, above all others in this country, has most distinguished himself by his devotion to American interests. It is no less than the Father of the American System himself who now stands forward in the defence of his offspring. It is the champion of the American free laborer who is now presented for his vote; and to silence

all cavil, he is distinctly pledged in favor of that Law, which his antagonists, professing to be Tariff men, seek so industriously to destroy.

"It is objected, however, by an Allegheny county Loco Foco Convention, composed of men who were a little more zealous than wise, that 'the principles of Protection were abandoned by the *infamous* Compromise Bill, and the interests of the manufacturing districts of Pennsylvania sacrificed to the truckling spirit of demagogism that procured its passage'—that they have ever been opposed to that act, and that its author is in favor only of *incidental* protection, and is therefore no better in that particular than Mr. POLK, who is tacitly admitted to be an enemy of the whole system.

"I have said enough, I trust, to explain the operation of this much talked of and much misrepresented Bill, which was enough in itself to *make* the reputations of a dozen better men than Mr. POLK, and which, in my humble judgment, has done more to establish the claims of its distinguished author to the very first rank amongst American Statesmen, than any other act of his public life. I have shown also, I think, that it was not the operation of that act, but the failure to carry out its provisions in 1839, which brought about the disasters which succeeded that period. But if there be any deficiency of proof on this subject, we can summon a witness into court, whose competency will not certainly be questioned by our adversaries. We have the testimony of JAMES K. POLK himself in affirmance of all that I have said on this point. In an Address, published by him at Columbia, in 1839, to the people of Tennessee, he asserts that 'so effectual were the recommendations of General Jackson for the reduction of the Tariff, with a view to the abandonment of the *odious and unjust* system, and so rapid the changes of public opinion, that the friends of the Tariff, and *even* Mr. Clay, its *imputed father*, seized on a favorable moment to save the whole from destruction by a timely compromise. It was the defence of Mr. CLAY, with his friends *at the North*, that by yielding a part, he prevented the destruction of the whole, and in their continued and devoted support of him, the Northern capitalists have shown that they are grateful for the fortunate rescue.' Here, then, is an answer to the charge of an abandonment of the Tariff from the pen of JAMES K. POLK himself, which ought to silence the tongue of calumny forever, and to make the cheeks of his friends in this county tingle with very shame. But if this be not enough, we have the further declaration from the same source, that 'if they (the people,) voted for him (Mr. CLAY,)



"SOLD FOR WANT OF USE"
Haltone of a Battlie cartoon of 1844 in the Congressional Library

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they would be virtually voting for the Protective Tariff.' What say you to this, people of Allegheny? Mr. POLK and his friends here are at issue. Which will you believe?

"But they are at variance with him on another point. While in their zeal to destroy Mr. CLAY, they have denounced the Compromise Act as '*infamous*,' and declared that they have always been opposed to it, they have most strangely forgotten that it received the support of JAMES K. POLK himself—though for a very different reason from that which he ascribes to Mr. CLAY—and that he is even in favor of going back once more to its most odious provisions. Now if they are honest in the declaration of their opinions in regard to that Act, they must abandon him, as a matter of course, on that ground. They cannot support him, and hope at the same time to preserve the confidence or respect of their fellow men.

"And now as to the objection, that Mr. CLAY is in favor only of *incidental* protection.

"To say that the Compromise Act involved a surrender of the principle of Protection, because it was a Revenue Bill, or that Mr. CLAY has abandoned his early nursling, because he has on some late occasion expressed the opinion that 'we no longer wanted protection *for the sake* of protection'—or because he is content with protection as an *incident* to revenue, is to speak in utter ignorance of the law itself as well as of the previous legislation of Congress on that subject. In the proper sense of the term, protection with us has always been *incidental*. Our Tariff laws have always been *revenue* laws, although the principle of discrimination for the sake of protection has been incorporated into the whole of them from the Act of 1789, down till the present day. Still it was a mere *incident*, and so long as mere *incidental* protection will answer our purpose, no practical statesman or rational man will demand any thing more. To make protection *direct*, it must consist either in a *prohibition* of the foreign article entirely, which would, of course, exclude revenue, or in a system of *bounties* upon the exportation of the domestic article which would operate as a positive drain upon the Treasury. Mr. CLAY, who is an eminently practical man, and would not sacrifice the object for the sake of the mere theory, is in favor of the *combined principle of revenue and protection*, because it will answer the purpose and will *unite* the country. The whole objection to him, therefore, is no better than a mere *quibble*, which is the result either of ignorance or dishonesty on the part of those who use it. The men who say that Mr. CLAY has abandoned in his old age the favorite policy

of his whole life, which he has taken so much pains to promulgate, and upon which the best part of his reputation as an American statesman rests, assert what they do not themselves believe, and are guilty of a wilful and abominable fraud upon the people. Let them take up, if they please, the volumes of his speeches and the record of his public acts, from his first appearance in public life, nearly half a century ago, down to his last reported speech at Raleigh, in North Carolina, and if they can find an observation or a vote which even *squints* in that direction—if they can point out any two sets of opinions for different latitudes, they are heartily welcome to all the advantage which it can give them. We have the testimony of his own enemies in the South, in every newspaper and upon every stump—and first and strongest of all, that of James K. Polk himself—that he is all which we, in Pennsylvania, claim him to be on this subject. It should be enough, however, for the country, that he and his party both stand solemnly pledged to the nation in favor of the Tariff as it is, while Mr. Polk and *his* party are as solemnly pledged for its repeal.

“While, however, our candidate is denounced in the South by Mr. Polk and his advocates as a high Tariff man, and the Whigs as essentially the high Tariff party, the friends of that gentleman in this County, where the Tariff is known to be popular, forgetting in their zeal the declaration of their recent Convention on the subject of ‘the *infamous* Compromise Act,’ assert with the strangest inconsistency, that he is *as good* a Tariff man as Mr. CLAY, because he is in favor of going back to the principles of the very Act which they so emphatically condemn. The difference, however, between the two candidates is this: that Mr. POLK is for going back to the point where the Whig Congress found the duties on the 30th of June, 1842, or in other words, to the lowest rate of duties prescribed by that Act, while Mr. CLAY is for adhering to its principle, by imposing such duties as shall be fully adequate to the support of the government without resorting to the Public Lands, and is therefore in favor of the Tariff of 1842, with that important modification.

“The whole question, then, for you to decide, is whether you will take the Tariff as it is, and the times as they are, or consent, for the sake of party, to go back to the *minimum* of the Compromise Bill—the *order* system—the low wages—the unsteady employment—the bankrupt government—the ruined credit, and the depreciated currency of 1842—the point at which the Whig Congress found the nation at that time? Whether you will

prefer levying a tax for the support of your government from foreign capitalists, or suffering *yourselves* to be taxed to the amount of \$113,000,000 per annum for the encouragement of foreign labor, and giving away your public lands, and perhaps paying an *excise* to meet the deficiency in your own Treasury? Choose ye for yourselves which side of this issue you will take. It will not do for you to say that you are in favor of the Tariff, if you are prepared to vote with the party which is aiming at its destruction, and whose success will inevitably bring about that result. I will judge you by your *acts*, and not by your *professions*, and I assert, what the very least reflection cannot fail to teach you, that you *cannot* be its friend if you vote thus.

“But *do* you—*can* you, doubt the opinions of the party which rejoices in the *name* of Democracy without regarding any of its principles, upon this important question? Will you listen to the syren song of its editors and leaders here, when they tell you that they are in favor of a protective Tariff? Go to the Register of the Congressional Debates. Examine the speeches and votes of their candidate, and of all their leading men on this subject. Read attentively the uncontradicted declaration of Mr. Payne of Alabama, at the recent session of Congress, made in the presence and hearing of the representatives of the whole nation:—‘*We* (the Democratic party) *are pledged against protection and distribution, and if any political hypocrite denies it, he ought to be kicked out of the party as unworthy of public confidence.*’ Look at the press all over the country. Examine the proceedings of their Convention at Baltimore; and then look at the opposite side of the picture and judge for yourselves. It is true they have not ventured to say, in so many words, in their Baltimore resolutions, that they are opposed to a Tariff. That would have been rather indiscreet at the present juncture. They have, however, to oblige their Pennsylvania friends, put it in other and softer phrase, by declaring only that they are in favor of equal protection to all, and opposed to the encouragement of any one branch of industry at the expense of another. Now what do they mean by this? Why, obviously, the doctrine of Calhoun and McDuffie, and the whole of the school of Free Trade politicians in the South—that the encouragement given to manufactures, and through them as well as more directly to the free *labor* and the *agriculture* of the grain-growing States, is a Tax upon the *planting* States whose labor is done by *slaves*, and who grow no grain for their own consumption. These States are interested in the decline of your agricultural staples, and they would therefore make you all *farmers* and field-

laborers. Their cotton pays little or no duty in England because it is needed there for their manufactories, and cannot be supplied at home, and they insist that they would sell more of it abroad, and produce it at a smaller cost, if you would throw open your ports to the manufactures of Great Britain, instead of manufacturing for yourselves. Tell them that they shall have a like protection with you, and they will say they don't want it, because they are above the reach of competition from any quarter. Like the dog in the manger, they will neither accept it themselves nor allow it to you. When they speak of equal protection, they mean that all articles shall come in—not equally *taxed* but equally *free*. They insist that they pay all the duties on your manufactures—your negro cloths, and your grain and pork, and every thing which they consume; because, as they falsely allege, they have to pay you a higher price for the article, while their staple is the principal export of the country, and they wish therefore to buy their goods immediately from their British customers. All Tariffs, therefore, for the protection of any and every department of American labor are, in their view, a protection of one or more branches of industry at the expense of another, or in their words, at *their* expense. They look upon the *planting* interest as utterly and irreconcilably at war with the whole doctrine of Protection. They say too in Congress that there must be a perfect harmony on this question in the Democratic party throughout the whole union, or it cannot hold together, and they assert that there is such a feeling. They want a Southern Confederacy too for the same reason, and they desire to purchase the cotton lands of Texas at your expense for the purpose of enlarging the boundaries of Slavery, overruling your votes in the Senate and more effectually destroying your Tariff, and they have been permitted with this view to set aside the expressed will of a majority of the party, and in violation of two of the fundamental principles of that *democracy* in which they affect to believe, to nominate for the Presidency a man who is a *cotton-planter* himself and of course a true and faithful representative of their opinions. They are indeed strictly a *Southern* and not an *American* party. And this is the precise meaning of their Baltimore Resolution.

“Is it possible then, I ask again, that any *Northern Farmer* or *Laborer* can be seduced into a vote for that Ticket, or can so vote if he is really a friend of the Tariff? If he be its enemy, let him come out and say so like a man, and his reputation for *honesty* will be safe at least, whatever we may think of his *understanding*. Let him not however affect to be its friend for

the purpose of deceiving others. To be in favor of Polk and a Protective Tariff at the same time is utterly impossible.

“But when I speak of you as the friends of a Protective Tariff, what do I mean? Why, nothing less than friends of *yourselves*, guardians of your own families, defenders of your own altars and your own firesides. I think I have said enough to show that it is your own question—your own dearest interests which are involved. That it would be unnatural to be found in an attitude of hostility towards all these is most true, but unfortunately we are sometimes our own worst enemies. The man who applies the knife of the suicide to his own throat—the husband or the father who swallows the inebriating draught, and in the madness of his intoxication turns the wife of his bosom adrift, or perhaps dashes out the brains of his own offspring, is an instance of it, and one which strikes us all with horror, but even his conduct is scarcely more monstrous or unnatural than that of the husband or the parent, who, stimulated by the madness of party, forgets all the ties of home and family and country, and is prepared to sacrifice upon its altar his own employment and all the comforts and subsistence of the helpless beings who are dependent on him for support! And yet how often do we see this! How often have I been tempted to exclaim, as I have seen the patient, honest, and industrious working man in his shirt-sleeves led to the polls like an ox or a sheep to the shambles by some miserable demagogue who, under the mask of friendship, was plotting his ruin, to cast a vote which was likely to consign his family to want and wretchedness and woe. Alas poor innocent!

“‘Pleased to the last he crops the flowery food,
And licks the hand just raised to shed his blood.’

“I have not been one of those, as all who hear me will bear me witness, who are in the habit on all occasions of indulging in honied protestations of love for the working classes. I may perhaps, however, be permitted to say that, being the son of a mechanic myself, with all my connections among the farmers and mechanics of the country, I am as likely to enter into the feelings and to sympathize with the conditions and the sufferings of the working-man as any of those pampered and privileged families of demagogues, who are the standing recipients of Democratic favor—who have never labored, and have lived for generations, and make their account in living upon the offices which ‘the dear people’ are constantly bestowing on them. Will you not give me your confidence then? What interest have I,—what interest *can* I have in misleading you? I seek no office,

and have never sought any either from President or people. It is true that I have been in your service, but it was in a situation of *trust* and not of *profit*, and no man can say that it was of my seeking. I have labored on former occasions, as you all know, in this holy cause, but it was without the hope or the expectation of other reward than the feeling of an approving conscience, and the aspect of prosperity around me. I have never been found begging as a menial in the ante-chambers of those who dispense public favours either at Washington or here, and I have never hesitated to quarrel even with my own party when I believed it to be wrong, as the fierce denunciations which I have from time to time encountered in all quarters abundantly testify. I think I may say that I have never gone out of my way either to propitiate the good-will, or to deprecate the censure of any man. What interest then can I have in misleading you? I have personally perhaps less interest in this contest than any man who hears me. But I have a country, and I shall have a posterity to represent me when I am gone. To that country and to those who preceded me I owe the blessings of civil and religious liberty, and all the other high and inestimable privileges of a freeman, and foul shame were it to me if I should refuse any effort within my power to transmit those privileges unimpaired to those who are to follow me. We are all embarked for good or for evil upon the same bottom, and we must all sink or swim together. We are all citizens of the same community and therefore interested in the common lot. It is a *Loco Foco* falsehood to say that there is any difference of interest between us, because you labor with the *hands* and I do not. I am a holder of Real Estate, and therefore interested in the general prosperity of this community. I am a man of business, and I know that my employment and the subsistence of my family are dependent upon the general welfare. But whatever may be my interests or my employment, I know that all classes of this community are mutually dependent on each other, and must prosper or fall together. I know too that the manufacturing industry of this community, is that which sustains it and gives employment to the whole of us; that our prosperity as a City and as a Nation has been arrested by the fluctuating policy of this government; that millions of money are now lying idle ready to be actively and profitably invested upon the proper settlement of this question in the election of Mr. CLAY; and that in any other event—which God forbid—we must all go down together,—Farmers, Mechanics, Operatives, Manufacturers, Merchants, and Professional Men,—in one common ruin. I

speak thus strongly too, although I was educated in, and once deeply imbued with the Free Trade theories of Adam Smith and the Economists of the French School. I never entertained a doubt however of the importance of Protection to a place like this. My own observation and reflection for the last ten years, assisted by the able and luminous speeches of Mr. CLAY, who has done more to disseminate the true American doctrine through this nation than any other man living, have undeceived me on this point in regard to the policy of the whole country. I would vote for him therefore—not as the man HENRY CLAY—the high impersonation of courage and manliness and magnanimity—the champion of the Late War—the apostle of Freedom the world over,—standing as he does in point of sagacity and statesmanship a head and shoulders taller than any other man in America—and even though he were no bigger than the pigmy POLK who would scarcely reach his knees—I would vote for him as the representative of the great principle of Protection to Home Industry, upon which the very existence of this community so essentially depends. I could not, as a citizen of Allegheny county, vote otherwise without gross infidelity to the community in which I live, and an equally gross dereliction of duty to my own family. It is all a question of interest to us at last. We *desire*, or at least *ought* to desire to be so governed as that our interests as a people shall be best promoted—for that is the only legitimate object of all government,—and he is no better than a fool or a madman who will suffer the demon of party to seduce him from his duty to himself—who will permit himself to be cheated out of his livelihood merely for the sake of hugging the miserable juggle of Democracy to his bosom, or putting some equally miserable demagogue into a fat office over his own head. Parties were intended in their origin to represent principles, and every man of good sense and honesty must vote in such a way as shall carry out his own views of public policy whether he votes with one party or another. The man who follows this rule, and keeps his eye steadily upon the principle without regard to the mutations of parties, is likely indeed to find himself occasionally in strange company. He cannot at all events, according to the modern doctrine that Democracy is progressive, continue to be a *Democrat* without shedding his skin about as often as a black-snake. But what interest have you in the fate of parties when they desert principles?

“There are some perhaps of those who hear me and who have heretofore acted with this Southern party, who would feel offended at the insinuation that, being laborers themselves, they

could be unfriendly to the policy of protecting American labor. To such I would say, why then continue with that party? Think you in your hearts that the Whigs will be strong enough to save you in spite of yourselves? Or *do* you—can you rely on the assurances of your editors and leaders here that they are in favor of Protection when the whole atmosphere of the union is resounding with denunciations of that policy from their political brethren, and the conviction of their hypocrisy is so manifest as to be utterly overwhelming? Would they dare to hold such language in the Southern States? Is it held any where except in Pennsylvania and perhaps New York? I will not say of you, with Mr. PAYNE of Alabama, 'that for professing to be Tariff men, you are political hypocrites who ought to be kicked out of the party as unworthy of the public confidence.' *You* are no doubt sincere. But I will say of your editors and leaders, who are perhaps without a single exception, in favour of Free Trade and opposed to the whole policy of protection—and I am ready to make it good whenever they will allow me the opportunity—that they deserve most richly all the denunciations which that distinguished Loco Foco has fulminated against them. Follow then no longer those false and deceptive lights. Trust not their hollow-hearted professions. They flatter you only to betray. They know that the election of JAMES K. POLK will be the death-knell of the American Free Laborer. They are utterly regardless of your dearest interests, and in the sacred name of 'Democracy' they would take without remorse the last crust of bread out of the mouths of your children. Discard then the *idol* which you have been worshipping. I appeal to you as men—as citizens of this community—as husbands—as parents. I entreat—I beseech you to pause and consider before it is too late. If my feeble powers were at all commensurate with the interest I feel in this question, I would cheerfully visit every workshop and every hamlet in Pennsylvania to give a warning to their inhabitants of the perils with which they are environed. I would pour the solemn voice of remonstrance and expostulation into their ears. I would proclaim to the working-man in tones of thunder—back from your perilous position! You stand upon a fearful precipice! Another step will engulf you! The paupers of England will push you from your stools! I would say to the Farmer—Awake from your fatal security. The triumph of the enemies of *American* and the friends of *British* Labor will blight as with a mildew all the abundant promise with which a bountiful Providence has blessed your morning and your evening toil. The destruction of our manufactories will

scatter your customers to the winds. The reflux tide of population will inundate your fields. But whether farmer or operative, I would say to both—It is your question most particularly. Look to it that you err not in your votes. Be true to your own interests: your country will feel the quickening impulse and go forward again like a giant refreshed with new wine, and your children will rise up and meet you in the gate and call you blessed.”

This vivid picture of the political thought of that day, which almost carries the reader back to a place in Mr. Williams’ audience, was a great power in public education on the tariff question throughout Pennsylvania and the West—for Pittsburgh was an influence in the West at that time such as can hardly be realized in these days when that great empire, with her scores of mighty cities, is now so sufficient unto herself. And as for Pennsylvania, Mr. Williams has ever since been recognized as one of the leading forces, dating even from 1838, in determining its voters for a permanent protective policy. Even the *Pittsburgh Post*, which could hardly be said to have been among his ardent supporters, admitted decades afterwards that in this field he “made a permanent impress upon his country. He was a leader amongst those who nearly forty years ago established as the permanent policy of Pennsylvania protection to domestic industry. His numerous speeches on the tariff * * * were recognized at the time as the most luminous and convincing, and although these speeches may have been generally forgotten, their effect remains, and is apparent in subsequent legislation.”¹ This, indeed, was characteristic of more than one campaign in his life; he sought the establishment of great permanent public principles, not the winning of a particular campaign. So in this campaign, the great Kentuckian did not become President, but neither his principles nor those advocated by Mr. Williams in this notable address were lost, as nearly a half-century of national policy can testify. They had only to give place temporarily, until the great institution of slave-labor, which

¹ The *Post* of June 10, 1872.

caused its temporary suspension, could be undermined.¹

"When I abandoned the field of politics," said he some years after this,² "as I did, after the disastrous campaign of 1844, it was with the feeling that it was vain to struggle against the prestige of the successful party, and that the surest road to relief, although perhaps a very long and painful one, was through the excesses of unbridled power, and the full development and exposure of the principle which was so obviously animating the victors. For this result I waited with the faith and the patience of the aged Simeon." It shall be seen later of how true proportions was this faith, and how valiantly he returned to the contest when the hour arrived. Meanwhile, with the brilliant public record of the past decade behind him, and at the early age of only thirty-eight years, Mr. Williams now turned more devotedly to his profession of the law, which, indeed, had not been, as might be supposed, secondary in his time or attention at any time since he first began the study of Blackstone. If his public activities have been emphasized, rather than his private practice, it is only because he himself placed so great emphasis upon his duties as a citizen above those that were personal, and because the former were and still continue to be of such overshadowing public interest.

¹ It should be remembered that the element of Whig weakness as a national party at this time was the fact that the southern Whigs controlled in regard to slavery, and this caused a corresponding defection in the northern Whigs. With all this, however, it is believed by many that only an unfortunate letter on annexation of Texas caused the disaster.

² "The Negro in American Politics," a speech delivered in Pittsburgh, September 29, 1860, and reproduced in Chapter XIV of this work.

CHAPTER XII

A DECADE OF PRIVATE PRACTICE, NEAR THE CLOSE OF WHICH HE RENEWS HIS LONG WAR AGAINST MUNICIPAL SUBSCRIPTION TO RAILWAYS

1844

To retire from public life meant to Thomas Williams retirement to private life in a sense rather more true of him than of most men. To him who was a born publicist, whose mind seemed to supremely value only the universals in life and thought, to retire to professional duties was to return to what was to him as peculiarly personal and private almost as family life itself. To treat it, therefore, in detail, and thus give it public emphasis, would be to lend it an importance and public interest in the perspective of his career that, there can be no manner of doubt, he would never have given it himself. Some men, either from choice or necessity, or both, make their professional life primary and their public duties secondary, or, possibly, the public conscience within them or their sense of the public weal is secondary in power to that which is private. In Mr. Williams the very reverse was true, in every particular. His early orations have already shown how lofty was his sense of the citizenship of the scholar, and he deliberately chose to give the public weal first place in his life. Fortunately, too, his financial ability, both as to his inheritance and the returns from his profession, caused him no conflict with necessity. Not that he was a wealthy man in modern terms of wealth, for he was not, nor did he desire to be. It must not be forgotten that he had now been a prominent leader and lawyer already for over a decade, and had practice of a high order in the local and Supreme courts of the State, and although he was not admitted to the Supreme Court of the United States as an attorney until after the decade

now under consideration, 1844-54.¹ he had an extensive practice in the State courts and a practice of a high character, both in court and as counsel for corporations and estates—much larger than those who knew him only in the last dozen or so years of his life might surmise. Indeed, he had the practice of one of the first counselors of the State, in both character and extent, and has been ever since often referred to as one of the cultured, high-minded lawyers of the "old school." As has been said, however, this part of his career he looked upon as his private life.

Efforts were often made during this decade to win him back to public life, but he resisted them, believing the time not yet ripe for usefulness. In 1845 signed petitions were sent him urging him to be a candidate for Congress before the convention of anti-Masons and Whigs, to be held in the spring of 1846, and again other petitions about the time the convention was to assemble.² He was so thoroughly a publicist by nature, however, that before the end of this decade he was again drawn into public life in a most striking manner, but still, as it may be described, through his professional side, and therein began, what has been considered by many, the most notable battle of his whole life. It is hardly accurate to say it *began* then, for ever since the first attempts in 1836 to get the government of Pittsburgh to subscribe to stock of railways, beyond her borders, he had consistently fought it, not as a local matter, but as vicious, immoral and illegal municipal enterprise. The matter now only took on a more formidable and dangerous phase.

It is difficult, in these days of luxuriant rapid transportation, not only horizontal, but even vertical, and not merely local, but national and worldwide, to realize the gigantic cost of it in these early stages of canal and railway experimentation. For these days were the period of experiment, out of which has been created the great science and art of transportation, as we know them to-day.

¹ He was admitted to the bar of the national Supreme Court, on motion of Andrew W. Loomis, on February 11, 1856. Certificate among the Williams papers.

² Petitions among the Williams papers.

It was not merely experiment so far as mechanics and engineering were concerned, but finance and organization and public law as well—all equally crude. Mr. Williams had been the champion of canal transportation for Pittsburgh and the rest of the country, and when the Baltimore and Ohio River Railway proved the plausibility of a road laid with rails, and even steam carriage upon them, it has already been seen that he was one of the foremost champions in Pittsburgh for the rail method. He was too well saturated with the spirit of the laws, however, to venture off of their well-fixed principles. He believed in internal improvement for both State and nation, and even sought the State's aid in canal and railway building—but within her own borders. Even a city might undertake aid of transportation—within her own borders; but neither had a right to go without those borders in quest of enterprise. Let the rail highways be built, but let them be built by private means and State aid, if necessary. How conservative men like Mr. Williams fought for this simple principle against the wild craze of communities for lines of transportation at any cost can hardly be realized, and still less can it be realized that for long, long years it was all in vain. But why did not practical men resort to State aid? They did, to a certain degree; but it must be remembered that the great system of canals, or "public works," as they were known in Pennsylvania, had already involved the Commonwealth in such enormous debt that by this time her credit was strained to the breaking point.¹

What was done? In order to understand the course of events, so far as Pittsburgh and Thomas Williams were concerned, events which make them stand out so prominently in the transportation history of the State, two elements must be kept clear: Pittsburgh commerce has always been the great prize, and Philadelphia and her closer friends have always purposed its possession with equally great determination. In a certain sense, the determination of the Pennsylvania metropolis to control the commerce of her next smaller sister at the gateway

¹ Sidney Smith, who had invested in Pennsylvania securities to his sorrow, once said he never saw a Pennsylvanian but he wanted to take off the man's coat, as Smith felt it belonged to himself.

to the Mississippi Valley is almost an epitome of the history of this mighty Keystone Commonwealth. Therein lies the unique and absorbingly interesting tale of the unification of Pennsylvania—Bismarckian though its flavor may often be. It is, indeed, the controlling thread in the labyrinth of State and even colonial growth back almost even to the time of David Lloyd and Penn—if not quite so. In this play of influences and forces, if Pittsburgh has tended to assume that she was one of the equal foci in a Pennsylvania regular ellipse, the metropolis has had an equal inclination to view herself as the centre of a circle, with a resultant history that is neither regular ellipse nor circle, but a truer and more fruitful Keystone oval instead. But Pittsburgh did not always find it possible even to view herself as one of equal foci, and that is no strange phenomenon—for are not Pennsylvania State boundaries artificial things, and are not the headwaters of the Ohio Valley—gateway of the West for both Philadelphia and Baltimore—the more natural facts? Here, then, rose a most forceful element in the conflict of powers, which adequately explains why the Connellsville rail route to Cumberland, was, as Thomas Williams often called it, a Pittsburgh “pet” and a peril to Philadelphia, and likewise explains the phenomena surrounding a later contemporary “pet” and “peril” of the respective cities. It explains, too, why, so far as political control of these matters are concerned, Pennsylvania has moved with Bismarckian rigor and aplomb, for she is, in fact, politically egg-shaped—the adherents of the metropolis rule by the divine right of republics. That this dominant power might be at times controlled by unwise, not to say corrupt, counsels, to the injury of the minority, or even the majority itself for that matter, would not be denied by any one. That it was at any particular time, is not the province of this account to determine; the purpose here is the preparation of the way for Thomas Williams to present his own case, as he has always proved himself abundantly able to do.

After some half-dozen years of this decade had passed, it became evident that, in spite of opposition, the Legislature was to be led to resort to giving certain counties

and cities the power to subscribe to stock for building various railways over the State in which these communities had special interest. One of these, approved on May 6, 1852, authorized Philadelphia to subscribe to stock of the Philadelphia, Easton and Water Gap Railroad.¹ Another, approved the 24th of February, 1853, authorized the commissioners of Allegheny County to subscribe to stock of the Pittsburgh and Steubenville Railroad,² and a third, which Governor Bigler did not sign, but which became a law on April 9th following, permitted Philadelphia to take stock in a road out in Westmoreland and Washington Counties, called the Hempfield Railroad, as a feeder to the Pennsylvania Railroad.³ The outcry against the constitutionality of such laws now took form in a suit in the Supreme Court, brought by William P. Sharpless and others, of Philadelphia, against the carrying out of the provisions of the two above acts relating to that city. Benjamin H. Brewster led for Mr. Sharpless and his friends, and Olmsted, Dallas, Brock and Reed defended the city government. As Pittsburgh and other communities were so vitally interested in this case, Mr. Williams was allowed the privilege of presenting an argument voluntarily, as the voice of all who were in arms against the constitutionality of these acts. It was written on August 15, 1853, "without the prompting of a professional motive and solely from a desire to serve his fellow-citizens"—as he himself said many years later:⁴

"The question of the validity of Acts of the Assembly," he began—to quote only his introduction—"authorizing the subscription by municipal corporations to the stock of rail road companies, not local, but almost entirely extra-territorial, and extending the sphere of their operations far beyond the boundaries of the jurisdictions contributing thereto—the gravest

¹ "Laws of Pennsylvania," 1852, p. 612.

² Ibid., 1853, p. 133. The "State Reports" (8 Casey, 218) quote this act as approved on the 26th instead of the 24th.

³ Ibid., p. 356.

⁴ Preface of his "Review" published in 1857. Also *Legislative Record*, 1861, p. 383. "It was not to save Allegheny county only—it was to save the city of Philadelphia as well—that I threw myself into that case, without fee and without compensation, to endeavor to breast that tide which I felt was about to submerge and overwhelm us." "Everybody admits now that these acts are unconstitutional."—Ibid., p. 384.

question, and, perhaps, the most momentous in its consequences, which has ever been argued before an American Court, is now under advisement with you. The vigilance, ever watchful, of those who have invented this new and formidable device, and are interested in maintaining this unwonted power, has not slept under its discussion. The companies which are drawing the life-blood of the City of Pittsburgh and the County of Allegheny, and are substantially without other resources than the credit of these corporations, are understood to have been before you. If the spoilers were there, they have at least found their way into a tribunal where the victim has at least a chance of being heard; and I accordingly appear under the indulgence you have been pleased to allow me, on behalf of the dissenting and protesting freeholders—resident and non-resident—whose property is thus ruthlessly torn from them by crude and unreflecting sciolists, for the sake, or upon the pretext, of experimenting on the practicability of increasing it in value against their will.

“The importance of the question to these communities, it is impossible to exaggerate. They have led off with the most reckless disregard of consequences in this dance of death. The initiative once taken, no scheme, however desperate or visionary, has since failed to obtain their aid. Already—only, perhaps, in the mid-career of their extravagance—they furnish the strongest illustration of the fearful consequences and the illimitable abuses of this monstrous power which this Union affords. They have incurred by it a debt unequalled, in its comparative amount, by perhaps that of any other public corporation—State, national or local—in America. With a population not much exceeding 130,000 at the last census, they have contracted obligations, mainly within the last year, and for this purpose alone, to the amount of upwards of five millions of dollars! They have dealt in this matter, moreover, in such a manner as, in the case of an individual, would have authorized and required a commission of lunacy, at the instance of his friends. They have subscribed a million to one road, and then undertaken the construction of two others, involving an outlay of at least ten or twelve millions, almost exclusively upon their own credit, and for the avowed purpose of holding in check and controlling the first object of their bounty! They have thus undertaken, not as auxiliaries merely, but as principals, what it is impossible for them to accomplish, even if it would pay when accomplished, without resources which they cannot command, and what must in all human probability, and as I think, inevitably, result in the entire loss of their investments. And all this has been done

under authority conferred by the Legislature, upon the application of the companies interested, and without any request, or even knowledge, on the part of the people, upon a few men, designated by themselves, who were entirely irresponsible to those in whose names they were incurring such enormous obligations, and without voice or vote on the part of those whose fortunes were thus committed to their hands. It has been done, too, and justified under the pretext of benefitting the unwilling, and enriching them in spite of themselves, and the consequences are already upon the remonstrants, in the unquestionable depreciation of their freeholds, under the gathering shadow of this great debt, to an extent which can only be ascertained when men can be once more encouraged to invest their means in so precarious a property. It is to disperse this cloud, and to reinstate the freeholder, who has been thus practically disseized, in his lawful possession, that the aid of this court is now invoked. It is a life and death question to us. If the conservative powers of this august tribunal are insufficient for our relief, there is no result, as it appears to me, but utter and irreparable ruin—ruin which will outlive our generation—ruin, before which all transient calamity, even the great fire of 1845 itself, would pale!”¹

The court, at this time, was composed of Chief Justice Jeremiah S. Black and Justices Ellis Lewis, Walter H. Lowrie, George W. Woodward and John C. Knox. The case was of the profoundest importance, from any point of view. No act of assembly during the life of the old Constitution of 1790—nearly a half-century—was declared unconstitutional, and even under that of 1838 only a few had been declared so, and those only for clear cases against distribution of governmental powers, or restrictive clauses in the Constitution, or the Bill of Rights, or grants to the national government—never on what is called a “lower ground” than these—never on the further definition of the purposes of municipal corporations.² Even the Chief Justice fully realized, and even expressed his realization of the appalling consequences of the existence of such a legislative power:

¹ Reprint of the argument, a pamphlet of about 23,000 words. Williams papers.

² 9 Harris, 183, in Justice Woodward's opinion.

"If the power exists," said he in his opinion,¹ "it will continue to be exerted, and generally it will be used under the influence of those who are personally interested, and who do not see or care for the ultimate injury it may bring upon the people at large. Men feel acutely what affects themselves as individuals, and are but slightly influenced by public considerations. What each person wins by his enterprise, is all his own; the public losses are shared by thousands. The selfish passion is intensified by the prospect of immediate gain; private speculation becomes ardent, energetic and daring, while public spirit—cold and timid at the best—grows feebler still when the danger is remote. Under these circumstances it is easy to see where this ultra-enterprising spirit will end. It carried the state to the verge of financial ruin; it has produced revulsions of trade and currency in every commercial country; it is tending now, and here, to the bankruptcy of cities and counties. In England, no investments have been more disastrous than railway stocks, unless those of the South Sea bubble be an exception. In this country they have not generally been profitable. The dividends of the largest works in the neighboring states, north and south of us, have disappointed the stockholders. Not one of the completed railroads in this state has uniformly paid interest on its cost. If only a few of the roads projected in Pennsylvania should be as unfortunate as all the finished ones, such a burden would be imposed on certain parts of the state, as the industry of no people has ever endured without being crushed. Still, this plan of improving the country, if unchecked by this Court, will probably go on until it results in some startling calamity, to rouse the masses of the people."

Notwithstanding all of this, however, it was held by Chief Justice Black and Justices Woodward and Knox—a majority of one, of the court, that these and similar acts were valid. Forthwith the outcry against the decision was voiced by Mr. Williams in an elaborate pamphlet, "Review of the Opinion of the Three Judges of the Supreme Court of Pennsylvania, Affirming the Validity of Acts of Assembly, Authorizing Subscriptions by Municipal Corporations to the Stock of Railroad Companies. By a Member of the Bar."² This was published

¹ Ibid., p. 159.

² Second reprint of 1857, among the Williams papers.

It may be noted at this point that Mr. Williams delivered another college oration at Miami University, Oxford, Ohio, on June 28, 1854, which was published. As his previous addresses sufficiently illustrate his powers in that line, this one need not be reproduced.

and spread broadcast. It is a combination of legal argument, voice of protest, and propagandists' plea to the people to rouse themselves to take measures to cure or at least to abridge the operation of this great evil. It was so timely and powerful that it was again reprinted at a later period in the struggle, which need not now be anticipated. It justifies reprint entire again, as here follows:

"Respect for authority," he begins, "is habitual with the profession. In the determination of mere questions of property between man and man, where it is, perhaps, more essential that the law should be *settled*, than that it should be settled *wisely*, acquiescence may possibly be regarded as a duty. There are cases, however, where silence would be criminal. Where doctrines are announced, and under color of those doctrines, rights invaded, which involve the permanent welfare of whole communities, by overthrowing the securities of property, and striking at the foundations of all legitimate government, the question assumes a different aspect. The habit of deference is then no longer to be worn. The lawyer becomes the citizen. He feels that he has other and higher obligations, than even those which bind him to his client. He is called upon to lift his eyes from the ephemeral struggles of the forum, to the relations of country and of time. Nor can he remain indifferent. His habits of thought and observation quicken his perception of the dangers which may lurk even under an abstraction. They teach him, in the fact that time sanctifies error, and ripens even usurpation into law, the wisdom of the apophthegm, '*obsta principiis*,' and the necessity of strangling a false principle before it has been fully developed into life; and he feels that, under such circumstances, indifference would be disloyalty to his profession, and acquiescence, treason to his country.

"These reflections have been suggested by the recent extraordinary decision of the Supreme Court of this State, in the case of *Sharpless and others against the City of Philadelphia*, and will, perhaps, be received as a sufficient apology for the review of an opinion which, deciding, as it in effect does, that the mere delegates or representatives of the people may single out any given community, and authorize their own agents or appointees, without the assent of the people thereof, to borrow money in their names, and to pledge their property for its payment, *to any extent and for any purpose whatever*, has startled and shocked, beyond all past example, alike the professional

and the public mind of this State. It is admitted by the Court that no question of greater magnitude has ever occupied its attention. It is conceded that the legislation which it sustains, is 'impolitic, dangerous and immoral.' It is even affirmed that it may, and most probably will, result in the universal bankruptcy of our corporations, and crush with its iron weight the industry of our people. It is not to be doubted, therefore, that it menaces the overthrow of one of the most invaluable of those rights which all governments are instituted to secure; and it behooves us to inquire into the validity of the reasons, upon which the Supreme Court has felt itself compelled to abdicate its supposed duty to the people, and to surrender them and their fortunes into the hands of the Legislature.

"There is another reason, however—if reason were wanted—to justify this inquiry. If the decision referred to, had been the result of an unanimous opinion of the Court, it might have induced some hesitation on the part of those who were disposed to question its soundness, although its startling consequences were such as to authorize an indefinite struggle for the re-establishment of the principle which it surrendered. The decision is, however, neither unanimous nor final. It is, at the most, but an accidental adjudication, by the mere force of *numbers*, upon the majority principle, and upon an issue strictly preliminary. It would scarce be entitled, therefore, to any respect as an authority, even upon a mere question of property. As a decision upon a great question of constitutional right, it must depend for its permanency, not on the number of hands which may have been lifted up in its support—not on the insecure and shifting tenures of particular Judges—not on the fluctuating opinions of the people, which may be one thing when money is to be borrowed, and another when it is to be paid—but on the force of the reasoning by which it is sustained. In such a controversy, the majority principle has no legitimate place. Where the weapon is reason, and not force, as in the contests of the forum, there is no magic in the multitude of suffrages. Opinions are to be *weighed*, and not *numbered*, and if they will not bear the test of reason, it is morally impossible, in such a case as this, that they can stand as law.

"I propose, therefore, to test the arguments of the majority by this standard. They will be found, if I mistake not, to start from false principles—to rest on palpably erroneous and heretical notions in regard to the theory and structure of our government—to be grossly inconsistent in themselves—to involve admissions which are fatal to their own conclusions—to over-

look the highest authorities abroad, and to betray a most singular forgetfulness of decisions of still higher authority at home. And if it should appear, as I think it will, that, from the admissions of the Chief Justice, his associate (Woodward) would have reached a different result, and with the admissions of his associate, the Chief Justice must have paid him the same compliment, it will, perhaps, be conceded that there is no great force in a majority result, patched up out of such incongruous elements as these.

"I shall address myself, however, in the first place, and mainly, to the elaborate opinion of the Chief Justice, and then take up that of his elder coadjutor, in the way of contrast. With the opinion of Judge Knox, I shall not meddle, until it appears, as promised, in such a state of development, as will enable the profession and the public to discover and examine the reasons upon which he has felt constrained to co-operate in inflicting so deep a wound upon the integrity of our institutions, and the rights and liberties of the people.

"The first of the remarks of the Chief Justice which challenge our attention, are those which refer to the origin and structure of our government, as furnishing the true rule for the interpretation of its fundamental law. This is the starting point, and it is a radical one. His whole argument rests upon the foundation which he lays here. If he is wrong in his premises, it infects every inference, poisons every deduction, and overthrows every conclusion at which he has arrived.

"His theory is this: That in the beginning the people held in their own hands all the powers of an absolute government; that the transcendent powers of Parliament devolved on them by the Revolution; that if, after that event, they had given all the authority which they themselves possessed to a single person, they would have created a despotism as absolute in its control of life, liberty and property, as that of the Russian Autocrat; that a portion of this power was specifically delegated to the Government of the United States; that the residue was bestowed on the government of the State, with certain limitations and exceptions *expressly* set down in the State Constitution; and that, without these exceptions, the vesting of the legislative power in the General Assembly, by the mere force of the general words used in the Constitution, would have given them an unlimited power to make all such laws as they might think proper, and would have vested in them the whole omnipotence of the British Parliament:

"And, by way of corollary to all this, that, while the Federal

Government can do nothing but what is authorized expressly or by clear implication, the State may do whatever is not prohibited: and that *the interpretation of the State Constitution*, unlike that of the Federal Government, is *strict against those who stand upon the exceptions, and liberal in favor of the Government!*

"Is this the true theory of our Government? I venture to say that it has no support in any American authority; that no enlightened jurist on this side of the Atlantic has ever favored such a hypothesis; that it is at war with all Revolutionary sentiment in this country; that it is repudiated by the highest names on the American Bench, and denied by the solemn adjudications of our Courts; that it is in flat contradiction of the grounds assumed in the Declaration of Independence, and of the principles announced in our own Constitution; and that it is as abhorrent to reason, as it is anti-republican in its tendencies, and pregnant with danger to our liberties. This is strong language, but I know where I stand, and will now proceed to show that it has not been used without warrant.

"The idea of the Chief Justice is, that by virtue of the separation from the British Crown, the people of this State became, *ipso facto*, vested with the powers of an absolute government, which imply an entire control over the lives, liberties and fortunes of its subjects—that they might have conferred these powers on one man, and that, by the mere delegation of the legislative function, and by force of the general words, they did confer them on the General Assembly.

"It will not be denied, of course, that if they could have conferred these powers, either on one man, or on a Legislature composed of many, they might, *a fortiori*, have exercised them themselves, as at Athens, in their own primary Assemblies, and that, under either form, the government exercising these extraordinary powers would have been equally despotic. If the Chief Justice is right, therefore, every State in the Union, upon the recognition of its independence, and before the adoption of the Federal Constitution, became, by virtue of the Revolution, and by way, I suppose, of reward for its struggles and sacrifices in the cause of liberty, *ipso facto*, a despotism; and the majority of its citizens might lawfully have dethroned and abrogated the great law of nature, and taken away the lives, liberties and property of their brethren! According to this idea, every social organization, in the absence of a special contract, resolves itself at once, and naturally and necessarily, into a despotism. That is, of course, the only original, legitimate and pattern type or

model of all government, and all the rest are mere derivatives or monstrosities. The social compact, therefore, implies an entire abdication, on the part of every man who becomes a party to it, of all his natural and civil rights; and, if he is not deprived of them, he is indebted for his immunity entirely to the forbearance of his fellows. He is a slave, until he can *extort* from the society a recognition of the inviolability of some right or principle. He becomes a freeman only to the extent of that recognition, and he is, accordingly, to be regarded in its construction, in the relation of one who has robbed the State of just so much of the jewels of its prerogative!

“Was this indeed the condition of the Colonies after the Revolution? Some of the States—one of them at least—adopted no Constitution of government for many years afterwards. The gallant little province of Rhode Island stood upon a Royal Charter only, until within the few past years; and yet a very different doctrine was held by the Supreme Court of the United States, when a question arose before that august tribunal, in relation to the powers of that government and the rights of its citizens. *Wilkinson vs. Leland*, 2 Pet. 654. And so, too, in the case of *Terret vs. Taylor*, 9 Cranch, 43, the same Court held the following language:

“‘By the Revolution the public property acquired by the Churches did not become the property of the State. The title was indefeasibly vested in them by their purchases. It was not in the power of the Crown to seize it, nor of the Parliament itself to destroy the grants. The dissolution of the regal government destroyed no right of property. It did not involve a dissolution of civil rights, or an abrogation of the Common Law. The State itself succeeded only to the power of the Crown, with many a flower of prerogative struck from its hands. It has been asserted as a principle of the Common Law, that the division of an empire creates no forfeiture of previously vested rights of property. *Kelley vs. Harrison*, 2 John. C. 29; *Jackson vs. Lunn*, 3 do. 109; *Calvin’s Case*, 7 Coke, 27. And this principle is equally consonant with the common sense of mankind, and the maxims of eternal justice.’

“But if the people in the beginning had, in themselves, as suggested by the Chief Justice, all the powers of an absolute government—inert, it may be, but capable of being exercised for the most tremendous purposes of mischief—whence, we may well ask, were all these formidable powers derived? Not, certainly, from the Law of Nature, because, in the original and primitive condition of society, where that law would be the only rule, it is palpable, as asserted by the Declaration of Independ-

ence, that all men are *equal*, and no one man has any *moral* power whatever over either the life, liberty or property of his fellow.

“Did it result, then, from the social organization, and as a necessary consequence of the social state? Are all governments, not depending on express compact, primarily and essentially despotic? This is clearly the idea of the Chief Justice, as it is unquestionably the fountain-head from which he derives all his conclusions, and the ground upon which he rules this case. That it favors despotism, and must result, if carried out, in the destruction of every *free* government on earth, is not to be doubted by anybody. But how does he make it out? Is it a *necessary* result of the creation of a law-making power? Do the objects and purposes of the social state infer any such necessity? What are those objects? Does any one doubt elsewhere, at this day—can any one doubt here, in the face of the reiterated and authentic declarations upon that point, that they are to protect the natural rights of the individual, and thereby to secure his happiness? Is it necessary, then, to effect this object, that he should make a holocaust of all those rights, and surrender them into the common treasury of power, to be doled and parceled out again by the supreme authority, in such measure, either stinted or otherwise, as it may think proper: that, like King John of England, in his dealings with the Pope, he should surrender his dominions to his temporal superior, whether King or Legislature, and then go down on his knees to accept a new investiture, and do homage therefor, as of the bounty of the sovereign? Would the law-making power be ineffective to accomplish all its legitimate purposes, unless it were uncontrollable, absolute and supreme? Why should it be so? Will it be said that the reservation of those rights which governments are especially designed to secure, is inconsistent with the idea of all government? If it be, then all government is impracticable for what are the only legitimate purposes of its institution! It is not *necessary*, therefore, that such a power should exist in order to accomplish the object; and if not necessary, it is demonstrably clear that it did not pass upon that footing—as it is equally clear that it would be anything but wise to confer, what was much better calculated to defeat than to subserve the general purpose.

“The idea of a free Government—and it is, in our view, the only correct idea of all government—is, that it involves the surrender of just so much of the natural rights of the individual, as is essential to the protection of the natural rights of all; and

it is clearly not to be *presumed* that he intended to surrender anything more, unless he has said so, or unless it be essential to the main purpose. In either case, however, it would stand upon his own assent, either express or implied. The former is out of the question; and the latter cannot be shown, because the ground of necessity is palpably wanting. What, then, becomes of the ruling idea of the Chief Justice—the idea of absolute power in the community? It has not a foot to stand upon.

“Nor has this doctrine ever had any respectable support from any quarter on this side of the Atlantic. It is true, that some equally wild notions in regard to the power of the people in convention, were broached in different parts of this State, about the time of the election of Delegates to amend its Constitution in 1836. It was asserted on that occasion, by one or two individuals only, that the Convention then about to assemble, might repeal charters, enact a code of laws as bloody as those of Draco, and perform divers other feats not less extraordinary; but the people took the alarm, and the men who entertained these opinions, though highly respectable in point of character and ability, were not favored with the opportunity of experimenting in that way. The Convention resulted only in an *abridgment* of the governmental power, and the opinions referred to have slumbered in merited oblivion, until drawn forth and re-indorsed by the present Chief Justice of this State. If they shall prevail with the people, under newer and more favorable auspices, we may have another Convention, by and by, to do what the last one omitted—under the old-fashioned impression, that it could not be done—perhaps to divest the rights of the minority, and to transfer their property to the dominant party.

“Is it true, then, that the people could have created a despotism, and would have created it by a general grant of the legislative power either to a single person, or to the General Assembly?

“We have shown that no such absolute power, as is claimed for the people, could have belonged to them, either on the footing of the natural law, or on any presumption of consent arising out of the necessities of the social state. But this is not all. We are now prepared to show that the people of this State *could not*, even with the common consent, by virtue of any moral power which resided in their concurrent and unanimous wills, have created a despotism as absolute as that of Russia; and that they *would not* have created it, by a general and unqualified grant of the legislative power, either to a single person, or to the General Assembly.

“The authority to create such a Government as is described, involves, necessarily, the power on the part of the individual to abdicate all his natural rights, and to degrade himself into a slave. The idea is derived most probably from the notion that every man is lord over himself, and that the power of the society is no more than the expression of the collective will, whether signified by the common voice, or by the voice of a mere majority. It is not true, however, that either the individual, or the community speaking for him, and holding, of course, no larger powers than he can confer himself, could, by any valid compact, surrender to any man or to any government, the entire control over his life, liberty and property, which are the gifts of Providence, for his own uses, and not his to be squandered with the prodigality of a thriftless heir. If the Chief Justice of Pennsylvania himself, were called on to pass upon a contract, by which any man in this country had undertaken to barter away either his life or liberty, or his right of acquiring, and enjoying what he acquired, he would be obliged to say that it was not obligatory on the contracting party. He would be constrained to declare that there was no consideration which would be adequate to sustain it; and he would be apt to affirm, with the emphasis which he knows so well how to employ, that the man who had made himself a slave, by the surrender of all his natural rights to a single person—as it is now asserted he may do—stood absolved, in the sight of God and man, from all obligation of obedience to the master, for whose benefit he had been guilty of the moral treason of abdicating his manhood, and surrendering the priceless jewels of his natural inheritance. It is not to be denied by anybody at the present day, that there are certain rights pertaining to every man, which are, in their very nature, *inalienable*. The Declaration of Independence, which is the authentic exponent of the causes of our Revolution, and the principles which that Revolution established, declares in its very first paragraph, as a ‘self-evident truth,’ ‘that all men are created equal, and are endowed by their Maker with certain *inalienable* rights, among which are life, liberty and the pursuit of happiness; and that to *secure* these, governments were instituted amongst men.’ Chief Justice Black declares that there are no ‘inalienable rights’ whatever, and that, by force of the very organization of a government, those which are so denominated, are, *ipso facto*, surrendered! But the contradiction does not stop here. The Constitution of Pennsylvania enumerates, with equal emphasis, among ‘the great, general and essential principles of liberty and free government,’ the rights of life,

liberty and property, as '*inherent and indefeasible*.' Chief Justice Black sets out with the antagonist opinion, as his postulate, and declares that the people of Pennsylvania might have surrendered the whole of them into the hands of a single man, and that they did surrender them to one hundred and thirty-three of their servants, by the mere general grant of the legislative power!! If the Chief Justice is right, the '*self-evident truths*' of the Declaration are a *lie*, and the '*inherent and indefeasible rights*' of the Constitution, are defeasible by the merest *implication*! It is his privilege, perhaps, to dissent from the axiomatic enunciations of the immortal Charter, whose every principle was baptized in the blood of the Revolution, but it is most respectfully submitted, that he is not at liberty even to question any one principle which is announced as 'a great, general and essential principle of liberty and free government,' in order 'that it may be recognized and established,' in the written pages of our State Constitution. That Constitution is *his* law, as well as *ours*. If he cannot *add* to it, as he alleges, it is equally certain that he cannot *take* anything away.

"It is clear, therefore, not only on principle, but on authority, which the Chief Justice of Pennsylvania, at least, is not at liberty to question, that the people of this State *could not* have established a valid government such as he describes. But, to give him every possible advantage in the argument, we will suppose, for the present, that they *could*; and then inquire whether they *would* or *did*, by force and virtue of the mere general grant of the legislative power.

"It is to be considered, in the first place, that the idea of such a government involves, as stated by the Chief Justice himself, the entire control over life, liberty and property, and of course the unquestionable power of divesting all rights, and abrogating all contracts, even the most sacred; and that the question, therefore, is, whether all these powers were conveyed by virtue of the general grant, except so far as it may have been restrained by the previous grant to the general Government.

"To establish this heretical proposition, it is necessary, in giving a construction to the grant, to discard the common sense rule, of resorting to the evident intent and meaning of the parties, and to adopt the exploded and unreasonable maxim, that a grant is always to be taken most strongly against the grantor. If this were, however, a sound rule of interpretation in the case of a Constitution, it would not be applicable here, because there is another rule which supersedes it—and that is, that in grants by the *Sovereign*, nothing is to be taken

by *construction*, and nothing passes but what is expressly named. The English books are full of authority on this point. 2 Black. Com. 347; 5 Rob. Adm. R. 182. The reported decisions of our own State are to the like effect: *Monongahela Co. vs. Coon*, 6 W. & S. 113; *Mayor of Allegheny vs. Ohio and Pennsylvania Rail Road Co.* 2 Casey, 360; and the same doctrine is affirmed by the Supreme Court of the United States, in the case of the *Providence Bank vs. Billings*, 4 Pet. 514, and in the memorable case of the *Charles River and Warren Bridge Companies*, 11 Peters, 420, wherein it was solemnly held, after the fullest consideration, that in a grant by the Legislature, a right which was essential to the protection of the grantee, could not be construed to pass by implication. In the case we are now considering, the grant was by the Sovereign—which is only another name for the people—and the rights claimed are, as already shown, not essential even to the admitted purposes of the grant.

“But that is not all. In the case referred to, the grant was absolute and to a third person—a contract made upon sufficient consideration, and therefore irrevocable. In this case, the grant is but a *delegation*—a mere power of attorney—made for the benefit, not of the grantee, but of the grantor—and revocable at his will and pleasure. If, therefore, nothing passed by implication, under any sound rule of construction, in that case, nothing, *a multo fortiori*, could pass by implication or construction in this; and nothing, certainly, under any imaginable rule, which was unnecessary to accomplish the object, or was, in any way, calculated to defeat it.

“The doctrine of the Chief Justice, however, is that, by the mere vesting of the legislative power, the very rights were surrendered, which it was the declared purpose of the grant to secure—that, under a power to make laws for a specified purpose, the authority vested of making all laws which they might think proper; and that, by virtue of the general phraseology, all those rights were absolutely *aliened*, which, by the express language of the Declaration of Independence, and our own Declaration of Rights, were declared to be *inalienable*!

“The mistake of the Chief Justice, in regard to the effect of such a grant, arises out of the erroneous notion that there is in every government a supreme and uncontrollable power residing somewhere, and that it must, of necessity, be lodged in the Legislature, because the business of the law-making power is the highest of all the functions of government. The idea is obviously borrowed from the remark of the great English Commentator, that *sovereignty and legislation* are convertible terms.

We are not, however, to be mislead, in a fundamental question of this sort, by false analogies. The doctrine may be true, as regards the British Constitution, where the Parliament is affirmed by him to be omnipotent, while the people are entirely unknown, and the sovereignty must, as a consequence of that supreme or transcendental power, necessarily reside with it. If the Constitution of that kingdom depends only on Acts of Parliament, and immemorial usages, and its Legislature may abolish customs, abrogate laws, uncrown the King, change the order of succession, alter the very structure of the Government, and do any thing, in short, which is not absolutely impossible, it is, in point of fact, supreme, and legislation and sovereignty are in effect the same thing. Not so, however, with us. There are many of these things which no American Legislature can do. The *people* are the sovereigns here, and their Legislatures only delegates acting under a restricted authority. With us, therefore, the terms are not convertible, as they are denied to be, upon high authority, even in England. The Government here is not the master, but the servant. It exists, not for its own sake, but for that of the people, to whom it is subordinate. It is but a means to an end, and when it ceases to answer its purpose, the people can change it. The law-making power is not, therefore, supreme. 1 Story's Com. secs. 207-8; *Taylor vs. Porter*, 4 Hill, 147; 2 Dall. 471-2. The Constitution is above it, and so are those who made both. When we speak, therefore, of 'vesting' the '*legislative* power,' we mean the power to make such laws only as do not interfere with any of those rights which the Government was intended to secure, and such only as are necessary to establish that security.

"The remarks of John Quincy Adams, in his oration of July 4, 1831, cited by Judge Story, in a note to section 208 of his Commentaries, are so much to the purpose that I cannot avoid quoting them:

"'It is not true, that there must reside in all governments an absolute, uncontrollable, irresistible and despotic power; nor is such power in any manner essential to sovereignty. Uncontrollable power exists in no government on earth. The sternest despotisms in any region, and in every age of the world, are and have been under perpetual control. Unlimited power belongs not to man; and rotten will be the foundation of every government leaning upon such a maxim for its support. Least of all can it be predicated of a government professing to be founded upon an original compact. The pretense of an absolute, irresistible, despotic power, existing in every government somewhere, is incompatible with the first principles of natural right.'

"The conclusion of the Chief Justice is, however, met practically and unanswerably by the fact, that in the Constitutions of several of the States of this Union—as well as in Rhode Island, where there was no Constitution at all—no declarations of rights were embodied at all, and that these declarations were omitted, for the reason suggested by Judge Nelson, in the case of *The People vs. Morris*, 13 Wend. 328, that they tended only to weaken, by enumeration, the rights always *understood* to be reserved, by giving color to usurpation on the footing of the *omissions*, and thereby furnishing apologies to ingenious Judges, for excusing legislative encroachments on the rights of the people. They came out of the Revolution free, and with the liberties of British subjects, not *lost*, as our Chief Justice supposes, but re-conquered and re-established by that struggle; and it was not imagined by any body at that period, that in creating a *Legislature*, as the mere organ of their will, they were creating for themselves a master, and surrendering to that master the very rights for which they had been contending. They had another reason, moreover, for the omission, which was equally pertinent, and is well enforced in the papers of 'The Federalist;' and that was, that Bills of Rights, being in the nature of abridgments of the prerogative, and concessions extorted from the Crown, would be out of place in a government where the people, being themselves the sovereigns, required no reservations for their security. (No. 84.)

"The doctrine of the Supreme Court of the United States upon the unwritten Constitution of Rhode Island, may be considered, however, an authoritative adjudication upon the very question which we are examining, and is as utterly destructive of the theory of the Chief Justice as are the Declaration of Independence and our own Declaration of Rights. The late eminent Judge Story, in delivering the opinion of the Court in that case, says:

" ' Rhode Island is the only State in the Union which has not a written Constitution of government, containing its fundamental laws and institutions. Until the Revolution, it was governed by a Charter of Charles II. That charter has never been abrogated, and, except so far as it has been modified to meet the exigencies of the Revolution, may be considered now a fundamental law. By that Charter, the power to make laws is granted to the General Assembly in the most ample manner, "so as such laws be not contrary and repugnant unto, but as near as may be agreeable to the laws, &c. of England, considering the nature and constitution of the place and people there." What the true extent of the power thus granted is, must be open to explanation, as well by usage as by construction of the

terms in which it is given. In a government professing to regard the great rights of personal liberty and of property, and which is required to legislate in subordination to the general laws of England, it would not lightly be presumed that the great principles of Magna Charta were to be disregarded, or that the estates of its subjects were liable to be taken away without trial, without notice, and without offense. *Even if such authority could be deemed to have been confided by the Charter to the General Assembly of Rhode Island as an exercise of transcendental authority, before the Revolution, it can scarcely be imagined that that great event could have left the people of that State subjected to its uncontrolled and arbitrary exercise.* That government can scarcely be deemed free, where the rights of property are left solely dependent upon the will of a legislative body, without any restraint. The fundamental maxims of a free government seem to require that the rights of personal liberty and private property should be held sacred. At least, *no Court of Justice in this country would be warranted in assuming that the power to violate and disregard them—a power so repugnant to the common principles of justice and civil liberty—lurked under any general grant of legislative authority, or ought to be implied from any general expressions of the will of the people.* The people ought not to be presumed to part with rights so vital to their security and well-being, without very strong and direct expressions of such an intention. In *Terret vs. Taylor*, 9 Cranch, 43, it was held by this Court, that a grant or title to lands, once made by the Legislature to any person, was irrevocable, and that *a different doctrine is utterly inconsistent with the great and fundamental principles of a Republican Government*, and with the right of the citizens to the free enjoyment of their property, *lawfully* acquired. We know of no case in which a legislative act to transfer the property of A to B, without his consent, has ever been held to be a constitutional exercise of legislative power, in any State in the Union. On the contrary, it has been constantly resisted, as *inconsistent with just principles*, by every judicial tribunal in which it has been attempted to be enforced. We are not prepared, therefore, to admit that the people of Rhode Island have ever delegated to their Legislature the power to *divest* the vested rights of property, and transfer them without the assent of the parties. The counsel for the plaintiff themselves have admitted that they cannot contend for any such doctrine. *Wilkinson vs. Leland*, 2 Pet. 657-8.'

"In the case of *Terret vs. Taylor*, which has been already cited, the same Court holds this emphatic language:

"That the Legislature can repeal statutes creating private corporations, or confirming to them property already acquired under the faith of previous laws, and by such repeal can vest the property in the State, or dispose of it to such purposes as they please, without the consent or default of the corporators, we are not prepared to admit.

And we think ourselves standing on *the principles of natural justice, upon the fundamental law of every free government, upon the spirit and letter of the Constitution of the United States, and upon the decisions of most respectable judicial tribunals, in resisting such doctrine.*'

"The opinion of the Supreme Court of New York, in the case of *The People vs. Morris*, (13 Wend. 328,) is, if possible, still more to the purpose. Justice Nelson, now one of the Judges of the Supreme Court of the United States, in delivering that opinion, says:

" 'The only limitation to the powers of the legislative department that can exist, must be found either in the Constitution of the United States, or of this State, or *in the natural and inherent rights of the citizens, which they cannot part with, or be deprived of by the society to which they belong.* The latter qualification is undefined, and, perhaps, undefinable by any general code, having a just regard to the security of these rights. Some of the Constitutions of the States contain a declaration of these powers, and some, also, declare (*and all are, no doubt, so to be understood,*) that the enumeration shall not be construed as denying or impairing others retained by the people. *We have no Bill of Rights, though many of the principles usually found in such an instrument are incorporated in the provisions of the Constitution. The enumeration was designedly omitted, because unnecessary, and tending to weaken, if not endanger, those unnoticed.* The limitation or qualification in this respect, must depend upon the enlightened wisdom and discretion of the Legislature, and *the decisions of the judicial department.* It is now considered an universal and fundamental proposition in every well regulated and properly administered government, *whether embodied in a constitutional form or not,* that private property cannot be taken for strictly private purposes at all, nor for public purposes, without a just compensation; and that the obligation of contracts cannot be abrogated or essentially impaired. These and other vested rights of the citizen, are held sacred and inviolable, even against the plenitude of power of the legislative department.'

"The same Court, in a more recent case, (*Taylor vs. Porter*, 4 Hill, 147,) speak in this wise:

" 'The owner of the land over which the road is laid, has not lost the entire fee, but he has lost the *beneficial* use and enjoyment of his property forever. It is not material, however, to inquire what *quantum* of interest has passed from him. It is enough that some interest—some portion of his estate, no matter how small—has been taken from him, without his consent. The property of A is taken without his permission, and transferred to B. Can such a thing be

rightfully done? Has the Legislature any power to say it may be done?

“The right to take private property for *public* purposes is one of the inherent attributes of sovereignty, and exists in every independent government. But even this right of eminent domain, cannot be exercised, without making just compensation to the owner of the property; and thus, what would otherwise be a burden upon a single individual, has been made to fall *equally upon every member of the State*. But there is no provision in the Constitution that just compensation shall be made to the owner when his property is taken for *private purposes*; and if the power exists to take the property of one man, without his consent, and transfer it to another, it may be exercised without any reference to the question of compensation. The power of making bargains for individuals has not been delegated to any branch of the government; and if the title of A can, without his fault, be transferred to B, it may as well be done without, as with compensation. This view of the question is sufficient to put us upon the inquiry, where can the power be found to pass such a law as that under which the defendants attempt to justify their entry upon the plaintiff's land? It is not to be *presumed* that such a power exists; and *they who set it up, should tell where it is to be found*.

“Under our Government, the Legislature is not supreme. It is only one of the organs of that absolute sovereignty which resides in the whole body of the people. Like other departments of the Government, it can only exercise such powers as have been delegated to it; and when it steps beyond that boundary, its acts, like those of the most humble magistrate who transcends his jurisdiction, are utterly void. Where, then, shall we find a delegation of power to the Legislature to take the property of A and give it to B, either with or without compensation? Only one clause of the Constitution can be cited in support of the power, and that is the first section of the first article, where the people have declared that “the legislative power of the State shall be vested in a Senate and Assembly.” It is readily admitted that the two Houses, subject only to the qualified negative of the Governor, possess “all the legislative power of the State,” but the question immediately presents itself, what is that legislative power, and how far does it extend? Does it reach the life, liberty or property of a citizen who is not charged with a transgression of the laws, and where the sacrifice is not demanded by a just regard for the public welfare?”

“And Judge Nelson, in the same case, says:

“Whether the security of the citizen against such arbitrary legislation as the argument contemplates, depends upon this clause of the Constitution, (that relating to the eminent domain,) or rests upon the *broader and more solid ground of natural right, never delegated by the people to the law-making power*, it is unnecessary now to inquire. I am far from disputing the existence of the rule itself.’

"And again, in the case of *Fletcher vs. Peck*, 6 Cranch, 87, Chief Justice Marshall says:

" 'It may well be doubted whether *the nature of society and government* does not prescribe some limits to the legislative power, and if any be prescribed, where are they to be found, if the property of an individual, fairly and honestly acquired, may be seized without compensation? To the Legislature all legislative power is granted, but the question whether the act of transferring the property of an individual to the public is in the nature of a legislative power, is well worthy of serious reflection. How far the power of *giving the law* may involve any other power, in cases where the Constitution is silent, never has been, and, perhaps, never can be definitely stated. The validity of this rescinding act, then, might very well be doubted even if Georgia were a single sovereign power.'

"These opinions are cited at some length, for purposes of reference upon other points, which will be discussed hereafter. It is scarcely necessary to add, that the principles which they enunciate are declared by Chancellor Kent, to be universal, fundamental and constitutional doctrines in English and American law.

"But the theory of the Chief Justice is, if possible, still more conclusively met by the unmistakable utterances of our own Constitution. The 26th and last section of the Declaration of Rights, after the enumeration of the principles and prohibitions which are contained in the previous sections, declares that '*to prevent the transgression of the high powers herein delegated*, we do hereby reserve every thing in this article contained, from the general powers of government, and declare the same to be forever sacred and inviolate.'

"What is meant by this language? If the powers delegated were *absolute*, by virtue of the general grant, it was, of course, impossible that there could be any *transgression* of them. 'Where there is no *law*,' the Apostle says, 'there can be no transgression;' and the like may be observed, where there is no *limitation*. This language implies the apprehension of *abuse*. It *was* possible, then, in the view of the framers of the Constitution, for the Legislature to do, what now seems to be generally regarded as impossible by the Judiciary—to transcend the high powers delegated to them; and in order to *prevent* it effectually, these principles are announced, and these prohibitions inserted. Without a declaration of rights, there might, in the view of the framers, be a *transgression*. It is clear as light, therefore, that they embodied the Declaration, not because they considered it necessary as a *reservation*, but by way only of greater precau-

tion against *abuse*. It was incorporated, therefore, not as a necessary limitation *per se*, but merely to prevent the *abuse* of an *implied limitation* in the grant itself.

"In every point of view, therefore, the theory of the Chief Justice is utterly untenable. It has no support in reason or principle, and is contradicted upon authorities which are perfectly overwhelming. And yet, from this false and alarming doctrine, maintained by nobody in this country, and utterly at war with all Revolutionary sentiment, and every idea of practical or rational liberty, does the Chief Justice most illogically deduce the still more monstrous and alarming rule, that, in the interpretation of the Constitution, its chapter of reservations, upon which he supposes the liberties of the citizens almost exclusively to repose, is to be construed strictly as *against* the *citizen*, who stands upon them for his security, and largely and liberally *in favor* of the *Government*.

"One would suppose that in a government like ours, professing to be a free one, and to have been created for the benefit of the *governed*, the very opposite construction would follow, by an inevitable logic, from the proposition that the general grant would have made slaves of all of us, and that the exceptions are the only refuge for freedom. It seems, however, that she is practically to find no refuge anywhere. If we look to the *grant*, and appeal to the *spirit* in which it was made, we are frowned out of Court, with the stern assurance that it has made us slaves, and that we must look to the *reservations* for our security. If we fly for refuge to the sanctuary thus pointed out to us, we are followed there, and dragged from the very horns of its altar, as fugitives from the power of our own Government—revolted subjects in arms against our sovereign. *Qua-cunque via data*—turn which way we will—the construction is to be against us. We are in the condition so pathetically described by our British ancestors: 'the barbarians drive us to the sea, and the sea drives us back again upon the barbarians.'

"With the demolition of the theory, of course, perishes the rule of construction which is founded upon it. There is so much, however, in that rule to challenge animadversion—so much that is revolting to the Republican mind, that I do not feel at liberty to pass it over in silence.

"That rule of construction is, in terms, that 'as against him who stands upon the exceptions, the construction is to be *strict*, while it is *liberal* in favor of the Government.'

"This monstrous sentiment is, perhaps, a fair result of the erroneous and heretical theory, by which it is ushered in. If

it be, indeed, true, that all governments are, *prima facie*, absolute, and all limitations on their powers are but abridgments of their natural and inherent prerogatives—concessions extorted by, and reluctantly yielded to the people, and held by the latter, not upon any original title, in themselves, but as of the mere bounty of the *sovereign*—then it may be asserted, perhaps, that the man who claims immunity under them in our Courts, is standing upon a *hard bargain*, coerced from his lawful master, and is entitled to no more than *the letter* of his contract. If a British Judge were so to hold, in view of the theory of his Government, as deduced from its actual history, and without reference to the modern notions in regard to the true sources of power, and the legitimate purposes of all government, the argument would be, at least, a plausible one. I doubt, however, whether there is a Judge in England, who, in a contest between a subject and the Crown, would have the courage to follow the lead of the Chief Justice of Pennsylvania—to reject the great modern principle of construction *in favorem libertatis*, and to decide that Magna Charta, or the Bill of Rights, was to be construed strictly as against the subject, and liberally in favor of the Crown. If the people of Pennsylvania are indifferent to the enunciation of such principles, it is not so with the gallant Commons of England. They know the value of a principle by the blood which it has cost them, and all the power of the Crown could not protect the Judge who uttered it, from the just condemnation of the people whom he had betrayed. We are, perhaps, indifferent, because we have come to our inheritance of liberty full-grown, and do not, therefore, either realize its original cost, or the dangers by which it is menaced.

“It has already been remarked, that one of the reasons suggested for the omission of Declarations of Rights in several of the State Constitutions, was the tendency of an enumeration to weaken the reserved rights, by giving color to usurpation, on the ground of omission. If the reasonableness of this apprehension could ever have been questioned—as it might well have been by men who had just come out of the Revolution—it is now amply justified by the example of a Pennsylvania Judge, who has not been ashamed to hold us to the *letter* of the reservations, even while he denies that we have any rights, except those which may have been thus protected. But let us examine his rule by the test of principle.

“It is admitted that the Constitution emanates from the people, and is their work. It will not be denied, I suppose, that it is but a power of attorney. It reserves, however, sundry

things from the delegation, and announces those things as 'a declaration of *rights*.' The things reserved, are mainly the *natural rights* of the citizen, which all governments are instituted to secure, and no more of which were intended to be parted with, than were essential to the general weal. The Declaration of Rights is, therefore, the 'Holy of Holies' of the Constitution. It is expressly and emphatically made the sacred depository of 'great, general and essential principles,' and of course the great palladium of individual and public liberty, which was to stand through all time, intangible and inviolable by the rude hands of power. With these reserved rights, even the delegates of the people themselves were not to be trusted. They could be announced, however, only in general maxims or *principles*, which would be understood, and they were so expressly announced, in connexion with sundry special prohibitions. The people had a right, moreover, to demand, that if any power was claimed to interfere with any of their natural rights, or which militated against any of these principles, the grant of it should be shown. The burthen was not on them, but on the aggressor. And now it is gravely asserted by a Pennsylvania Judge, that in a contest between the *citizen* and the *Government*—between the *maker* and his own *instrument*—the construction is to be, not according to common law rules—not according to the undoubted meaning of the parties—not upon the great, obvious and general purposes and objects of the instrument itself, which is only another name for its spirit, tenor and intent—but strict as against the *constituent*, where the power was given, and the reservation made, for *his* benefit only, and large and liberal in favor of the *attorney*! What would be thought, I ask again, of such a doctrine even in England, where a Bill of Rights is, in point of fact, an abridgment of the prerogative, or a concession wrested from a feudal sovereign? Would the common law and common sense rule be discarded there, or would the construction be, as it always is, *in favor of liberty*? Would a British Judge have the courage to announce, or could he announce safely, such a doctrine, at the present enlightened era? I venture to say that he could not hold his place for six months against the tempest which it would occasion. And yet it is upon such a principle, flowing, as it does, from an erroneous view of our Republican institutions, that the power claimed in this case has been sustained by an American Judge! It is on such a principle, that he has abdicated his high constitutional trust, and surrendered us and our prop-

erty, to the tender mercies of a mere ephemeral Legislature, which he declares to be practically omnipotent.

“Nor is it true that the law has ever been so declared elsewhere. It cannot be shown, we think, that such a doctrine has found expression in England at any time, although it may have been practically administered in many cases, while the Judges were dependent upon the Crown. From the era of the great Revolution, the tendencies, presumptions and maxims of interpretation have all been on the side of liberty. Nor has any American Judge, so far as we are advised, ever before given utterance to such a sentiment.

“It cannot be shown, in the first place, that the State Governments may do whatever is not distinctly and clearly prohibited *in their Constitutions*. It is already demonstrated, upon authority which is not to be questioned, that there is a limitation in the very nature of our governments, which stands clear and independent of all express reservations whatever. No more can it be shown that there is one rule of construction for the Federal Constitution, and another for our own. The distinction is repudiated by authority equally high, in the cases of *Gibbons vs. Ogden*, 9 Wheat. and *Ogden vs. Saunders*, 12 Wheat. 332; and denied by the ablest of the Commentators. Story’s Com. vol. 1, secs. 413-14.

“Nor is there any authority whatever, for the still more extraordinary distinction, which assigns one rule of construction for a *grant*, and another for a *reservation* in the same instrument, by enlarging the former and restraining the latter, and thus denying to the citizen the advantage of his own securities. If any distinction were admissible, the very converse of that proposition would be the true one. Where a provision is remedial in its nature, it is entitled to a liberal construction, and such was the doctrine of Chief Justice Jay, in the case of *Chisholm’s Executors vs. Georgia*.

“It is not necessary, however, to invoke even the reasonable and natural presumption in favor of liberty. A Constitution of government, like all other instruments, is to be construed according to the intention of the parties, and that intention is to be gathered from the whole instrument—from the context—the subject-matter—the effects and consequences—and the reason and *spirit* of the law—as well as from the *words*. 1 Story’s Com. sec. 400. ‘The rules of interpretation,’ according to Judge Gibson, ‘demand a strictly verbal construction of nothing but a *penal* statute.’ A Constitution of government is no subject for either metaphysical subtleties, or verbal criticism,

(Story, sec. 455,) or technical or artificial rules. (Federalist, No. 83.) If there be any difference in the case of a Constitution, we have the authority of the same Judge for saying, that the latter 'is to be construed *more liberally* than even a *remedial* statute, because a Convention, legislating for masses of men, can do little more than mark an outline of fundamental *principles*.' *Hobbs vs. Fogg*, 6 Watts, 558. 'When it is said that the Constitution of the United States should be construed strictly, whenever it touches the rights of property, or of personal security or liberty, the rule is equally applicable to the State Constitutions in the like cases. The principle upon which this rests, is, that the people ought not to be presumed to yield up their rights of property or liberty, beyond what is the clear sense of the language and objects of the Constitution. The *strict* or the *more extended* sense—both being within the letter—may be fairly held to be within their intention, as either shall best promote or secure their rights, property or liberty. The words are not, indeed, to be stretched beyond their fair sense, but within that range, the rule of interpretation must be taken, which best follows out the apparent intention.' Rawle, ch. 1, p. 31. And this is the mode which is universally adopted in construing the State Constitutions. 1 Story's Com. sec. 413. 'The safest rule is to look to the nature and objects of the particular *powers*, duties and *rights*, and to give to the words of each just such operation and force, consistent with their legitimate meaning, as may fairly secure and attain the ends proposed.' *Prigg vs. Pennsylvania*, 16 Pet. 610. 'A Constitution is to be construed as a law established by the people *for their own purposes*. The powers conferred, and the restrictions imposed, are for the common benefit of the governed, and not for the profit or dignity of the rulers.' 1 Story's Com. sec. 409. 'Keeping within the common and natural sense, the exposition is to have a fair and just latitude, so as on the one hand, to avoid *obvious mischief*, and on the other to promote the public good.' 12 Wheat. 332. 'Where the provision is for the benefit of the grantor, no one can doubt the propriety of giving to the words a benign and liberal interpretation.' Story, sec. 420. 'A Constitution of government founded by the people, for themselves and their posterity, and for the perpetuation of the blessings of liberty, necessarily requires that every interpretation of its powers should have constant reference to those objects.' Ibid, 422. 'No construction of a given power is to be allowed, which plainly defeats or *impairs* any one of the avowed objects.' Ibid, 425. These are the rules which have been

settled and approved by the highest authority. There is none to give even a color to the pretense, that there is one law for the Government, and another for the people.

"Starting from these premises, however, and assuming that the General Assembly may exercise all powers which are properly legislative, and are not *expressly* taken away, either by the Federal Constitution or our own, the Chief Justice remarks: 'But we are urged to go further, and to declare that a law, *though not prohibited*, is void, if it violates the *spirit* of our institutions, or impairs any of those rights which it is the *object* of a *free* Government to *protect*. But we cannot do this. It would be assuming a right to change the Constitution,' &c.

"This, however, is not a fair statement of the argument. The Supreme Court had not been asked to declare that a law, *though not prohibited*, is void under the circumstances suggested. All it was asked, was to say that, if it violated the spirit of our institutions, or impaired any of the rights which *this* Government was intended to secure, *then it was prohibited*, and, therefore, void. And for this purpose, they were asked to look at the whole instrument—to examine its general scope and purposes—to take its own solemn declaration on that point, as the key and index to its interpretation—to test the validity of the legislation involved, by a reference to those objects, and to give a construction to the whole, as they would to any other important instrument, which should effectuate the intent of the parties, *if at all consistent with its language*. They were asked to say, in effect, whether one of the main objects of this Government, as declared in that instrument, was not *the security of property*, and whether the legislation referred to was consistent with that object. Was there anything unreasonable in this?

"The answer is, however, that this cannot be done, because it would be assuming a right to *change* the Constitution; that this instrument has furnished a list of the things which the Legislature may not do; that the Court cannot *add* to that list any more than it can take away; that all powers are subject to abuse; that there is no shadow of reason for supposing that the mere *abuse of power* was intended to be corrected by the Judiciary; that nothing is more easy than to imagine the most reckless and tyrannical abuse of legislative power; that the same may be imagined of the Judges with equal facility, and to give them the right of controlling its exercise, on that ground, would be to gain nothing by the change, because Judges are as fallible and corruptible as Legislators, and less directly amenable to the people, who would at once avenge themselves of their

Representatives by 'scourging them into retirement;' that the *words* of the Constitution are the only test of the validity of a statute; and that all arguments based on general principles *outside* of that instrument, are to be addressed only to the *people*.

"This answer involves some curious inferences, which did not, perhaps, enter into the contemplation of the Chief Justice, when he was thus marshaling his government forces, in his zeal for reasoning down the rights and privileges of the people. He was not aware, perhaps, how much he was proving by his argument.

"It is an abnegation, in the *first* place, of the rule by which every law or contract is construed according to the intent and meaning of the parties, and with it, of the whole right of interpretation, either of Acts of Assembly or of private agreements, in all *doubtful*, and, of course, in all *controverted* cases. If to *interpret* a contract according to its obvious meaning, and without regard to the *letter*—and the Constitution itself is but a compact—is to *change* it, and to make a new one, then the Supreme Court of this State, as well as every subordinate jurisdiction, has been from its organization, and is yet, in the performance of its most ordinary and almost exclusive duties, in the daily and habitual violation, not merely of our own Constitution, but of the Constitution of the United States!

"It is a denial, in the *second* place, of the right of the Supreme Court to pass upon the constitutionality of *any* legislative act, because its only clear jurisdiction in such cases arises out of *abuses* of power under the Constitution. The Chief Justice awards to the Legislature an absolute plenitude of power, with certain exceptions only, which are *expressly* set down in the Constitution. Those exceptions are, however, declared to be for the purpose of 'preventing the transgression of the high powers therein delegated; and the right of the Court to interfere in the excepted cases, depends, therefore, only on the case of an *abuse*, with which, according to the Chief Justice, they have no right to interfere at all! It is still more curious, however, that while he recognizes the plenitude of the legislative power, and denies the right of interference, except where the act done is forbidden, *in so many words*, he does claim the right of nullifying a *law* by giving it a bad name and calling it a *decree*, because it trenches, *in his opinion*, upon his own functions as a Judge; although, if it did, there is nothing to be found in the Constitution which *expressly* forbids it! I see no difference between the cases, except that in the one it is the quarrel of an official *dignitary*, while in the other it is only the quarrel of the *people*.

"But, *thirdly*, it involves an utter oblivion of the Constitution, history, purposes and dignity of the Judiciary, and a declaration of utter unworthiness in all cases, in assuming that they are not any more worthy of trust than the Legislature, and even less so, because they are more irresponsible, and less amenable to the people. The Chief Justice forgets that the Judiciary was intended as a counterpoise to the Legislature, and was made permanent and independent for the very purpose of lifting it above all temporary influences, and enabling it, by its learning, its high character, its gravity, its integrity, and its entire independence, to hold the tyranny of majorities in check, until the popular mind could have leisure to react. This very independence is now, however, converted into an argument for the abandonment of a duty. The remedy suggested to us now is, to leave iniquity triumphant by merely 'unfrocking' its authors, after the mischief is consummated, instead of *undoing the act*; and this, because the Judiciary is no better, and much less responsible, than the Legislature! If it is, in point of fact, no better, the *theory*, at least, is otherwise. If it is ready to *confess* that it is no better, then its uses for purposes of constitutional supervision are at an end, and there is no further reason why it should continue to pass upon the validity of a legislative act at all. We must content ourselves with the reflection that the Legislature is *responsible*—that the *people* will sit in judgment upon their doings—and that they will avenge the wrong, not by redressing the injured, but by 'scourging the delinquents into a retirement,' where they can sin no more. The curious may, perhaps, inquire, why it is that the judicial tribunal which has already decided—and that, too, in the absence of any express prohibition—that the Legislature shall not skulk from its just responsibilities, by a delegation of even a *law-approving* power to its constituents, (*Com. vs. Parker*, 6 Barr, 507.) should claim the privilege of doing the same thing itself, by the transfer of its own higher and more delicate functions to the same body; but we shall, at least, enjoy the luxury of a new Constitutional Court, of apt material for nice investigations, whose decisions will echo the sentiments of the dominant party, and eventually set up a new Constitution.

"And, *fourthly*, it is a denial that there *are* any general principles *inside* of the Constitution, because it refers to the *words* as the only test, and treats all arguments derived from other sources, as flowing only from general principles *outside* of that instrument.

"But, the whole answer of the Chief Justice shows that he has misread the Declaration of Rights, and misapprehended its

general purpose and tenor, as much as he has mistaken the theory and structure of our Government. He treats it, exclusively, as a chapter of *prohibitions*. He tells us, again and again, that it is not sufficient that a *principle* is violated—for that is too vague, and would turn the Judges into law-makers; or that a power has been *abused*—for that, again, is not a question for the Judiciary; but that there must be a clear and distinct *prohibition*. If he will turn, however, to the Declaration of Rights, he will find that it purports, on its very face, to be a repository, not of *prohibitions* at all, but of *principles* exclusively—of what it denominates ‘the great, general and essential *principles* of liberty and free government.’ Nor does it treat them either as mysteries in themselves, or as deriving their obligation from the Declaration. It assumes that the Government is intended to be a free one. It assumes that the ‘essential principles’ of such a Government are understood. It does not propose the absurdity of *enacting* what, being ‘essential,’ must have been *implied*, at all events, from that very fact, but merely to *declare* those *principles*, with a view to their explicit recognition and perpetual establishment; and it announces them, in general terms, as maxims of government, or land-marks by which its authorities were to be guided. If it goes further, and passes into the details of special *prohibitions*, it is only in cases where the general *principle* might not be supposed to reach, as in the provision for compensation upon the exercise of the right of eminent domain; and it closes with the declaration, that ‘to prevent the *transgression* of the high powers’ which had been previously delegated, it excepts all these things out of the general powers of government.

“If the Chief Justice had read this Declaration as he ought, he would have found in it the answer to all his objections. Instead of regarding the general *principles* of liberty and free government as too vague and indefinite for safe adjudication, he would have discovered that it was *intended* only as a declaration of *principles*, and that it declared the inviolability of property as one of them, without reference to the manner in which it might be attacked, and whether ‘taken’ according to the rude notion of a bodily seizure, or by the more cunning but not less effective artifice of a mere incumbrance; and he would have looked at the provision in relation to the taking of private property for public use, as only intended as a qualification of the inherent and essential right of eminent domain, by enacting a recompense. Instead of dismissing the case for the want of an express prohibition, he would have found it in that Declaration, as distinctly uttered as the sublimest teachings in the Oracles

of Truth. Instead of declining the jurisdiction to correct the *abuses* of legislation, and disregarding the previous opinions of his own Court, he would have recognized, in the assertion of the purpose of 'preventing the *transgression* of the high powers' conferred, the *command* which it conveyed to himself, to test the validity of the Act of the Legislature by the application of these *principles*. He would have looked only into the purposes of the Government, and the rights it was intended to protect; he would have inquired whether the legislation in question did, in effect, without any necessity on the part of the State, interfere with the right of 'possessing and protecting property,' either by impairing the enjoyment or overthrowing the title; and finding that it did, he would have felt constrained to declare that it was at war with one of the 'great, general and essential principles of free government,' as declared in that instrument. And this is not all. If he had read the Declaration as he ought, he would have avoided the blunder of entering upon a serious argument to show that there was nothing in our Constitution to indicate that this Government was intended to be free, or, to speak with more precision, that its Legislature was to be circumscribed by the limitations which attach to the Legislature of a free State.

"But he is not willing to test the validity of a legislative act by these rules. He does not feel at liberty to look into the *spirit* of the Constitution, by taking a broad, liberal, generous, statesman-like and republican view of its whole scope, purpose and design. That may be apparent enough, but it is not a safe guide. The general intent may be frustrated, and must fail, unless the language be *express* and *precise*. Though the *letter* kill, there is no life-giving principle which can restore. If it were the case of a contract, made between A and B, for the purchase of a barrel of mackerel, the law would imply that they were intended to be *sound*, because that is the *spirit* of the agreement. If it were a question upon an agreement between the same parties, for the value only of a day's labor, the Judge would feel authorized even to disregard the *words*, if they conflicted with the manifest *intent*. He is not asked, however, to do anything of that sort here. It is not pretended that the construction claimed, is at variance with the language of the instrument. It is objected, only, that the expression of the intent is too general. Even the common-sense principle, which would govern in the case of the mackerel, is not to be invoked for the protection of a State, or the security of its citizens. The makers of the Constitution can reserve no natural right from the grasp of the Government, which they have erected for their own security,

by the enunciation of a *principle*. It is but a lifeless generality, without virtue, as it is without vitality; valuable, perhaps, for ornament, but utterly worthless for use. They are entitled to their mackerel, it is true. They may be rotten, but that is their misfortune. They have the *letter* of their contract, and are not authorized to ask anything more.

"But, monstrous, anti-republican, and utterly untenable, as this doctrine of the Chief Justice is shown to be, he does not hesitate to announce it as 'resulting so plainly from the reason of the thing, as scarcely to need the aid of authority!!' To satisfy those, however, whom his previous assumptions may have failed to convince, he condescends to refer to several of the opinions cited on the other side, and after disposing of them in the most summary way, as mere 'expressions favoring the opposite view,' and 'incidentally falling' from distinguished Judges—proceeds to declare that the weight of authority, on his own side, is utterly overwhelming; and that he is not aware that any State Court has ever held a law to be invalid, except where it was clearly forbidden.

"It is in connection, however, with the last part of the answer already referred to, viz: that the *words* of the Constitution furnish the only test of the validity of a statute, and that all arguments based on general principles *outside* of that instrument, must be addressed to the people, that the Chief Justice turns his attention to the decisions, with the remark, that these propositions result so plainly from the reason of the thing, as scarcely to need the aid of authority.

"I do not feel called upon to dispute the latter of these two propositions, because, in the present instance, it is clear as light, that the general principle invoked for our protection, is *inside* of the Constitution. No more am I required to deny the proposition that no Court—State or national—has ever held a law to be invalid, unless it was clearly forbidden. When the Chief Justice of Pennsylvania undertakes, however, to disparage the opinions of eminent Judges, which seem to have been cited against him on the argument, by characterizing them as mere '*expressions*,' 'incidentally falling' from them, and as entitled to no weight; and ventures, in the rash confidence of wild and unenlightened theory and imperfect research, to question the existence of a single case—either State or national—at variance with his views, I feel that I cannot resist the temptation to answer the defiance which his oracular, and magisterial, and depreciating tone, so strongly conveys. I refer him, then, in the first place, to the case of *Wilkinson vs. Leland*, already cited. If the authority of the highest tribunal in the United States, when

it reckoned amongst its Judges such names as those of Marshall and Story, will not content him, as being too high, I then invite his attention to the cases of *Taylor vs. Porter*, (4 Hill, 140,) and *Varich vs. Smith*, (5 Paige, 159,) in New York; to the case of *Bowman vs. Middleton*, (1 Bay, 252,) in South Carolina; to the case of [omitted in pamphlet] in Georgia: and if all these are not satisfactory, I then appeal to the case of the *Commonwealth vs. Parker*, 6 Barr, 507, in the Supreme Court of Pennsylvania, of which the ink was scarcely then dry.

"No more am I required to controvert the proposition, that the words of the Constitution furnish the only test of the validity of a statute, or that it can be declared void only where it violates the Constitution, clearly, plainly and palpably; because there is, in the present case, no absence of words, clear enough and strong enough, under any sound rule of construction, to answer all our purposes. If it is intended, however, by this language, to indicate—and such is undoubtedly his meaning—that the act must be prohibited in *so many words*, and that it cannot be clearly prohibited by the enunciation of a general *principle*, or in any other way, and is not clearly prohibited, although it may be in direct conflict with that principle—then he states what is not law—what is not supported by any one of the authorities to which he so triumphantly refers as overwhelming—and what, I venture to say, no industry of his can find a case to authorize. But that is not all. If he intends to be so understood, he states what is most flatly contradicted by decisions in our own State. The case of *Parker vs. The Commonwealth*, already referred to, is one of them; but it is not alone. The case of *Greenough vs. Greenough*, 1 Jones, 459, overruling that of Braddee and Brownfield, is another. The case of *Com. vs. Mann*, 5 W. & S. 403, in regard to the taxing of Judges' salaries, is a *third*; and, without multiplying words, the case of *Norman vs. Heist*, 5 W. & S. 171, is a *fourth*. Will the Chief Justice point out to us the *express words* in the Constitution, by which the Acts declared invalid in these cases, were prohibited? Is there anything in its specific prohibitions, against the taking of private property for *private* use? The Constitution declares that it shall not be taken for *public* use, without compensation. Is not the implication irresistible, upon his own rules—that general words are strengthened by exceptions, and weakened by enumeration—that there must be express words to prohibit—and that the construction is to be strict as against the citizen—that it may be so taken? Will he show what there was but the general principle, *inside* or *outside*, which he so vehemently discards, that could have protected the lawful heir, in the case of *Norman vs. Heist*?

The truth is, that it is only in cases where express words are *wanting*, that any question is likely to arise. The Legislature will not generally usurp a power, where they are met by a flat interdict; and that is precisely the use which has been assigned to Bills of Rights, by those who regard them as otherwise unnecessary. 2 Kent's Com. 8. It is in cases, however, where they come in conflict with a general principle, without suspecting it, as men unaccustomed to reasoning are apt to do, when they are dealing with an abstraction, that the intervention of the Courts is most required. 'It is those insidious encroachments which do not strike the eye at once,' in the language of Judge Bell, in the case of the *Commonwealth vs. Parker*, 'that are precisely the most to be dreaded.'

"And, now, having shown the utter heresy of the doctrine upon which the Chief Justice has rested his decision, I might have stopped at this point. I propose, however, to follow him still further, for the purpose of showing how hollow and fallacious, sophistical and contradictory, is the whole line of argument by which he endeavors to justify his conclusions.

"His next remarks have reference to the objection, that the Acts in question create a contract for the people of the city or county; and to this his answer is, that he does not say that a contract between two individuals or corporations, can be made by the Legislature, because that would not be legislation, and would be, moreover, morally impossible. He distinguishes, however, the Acts in question, as merely an *authority* given to the respective corporations, to make one *between themselves*, if they see proper; and asserts, that the authority to make contracts on behalf of the people, belongs to all public corporations, because it is necessary to their existence, and may be exercised without their unanimous consent, and that the contracts which affect a man as an *individual*, must be made by *himself*; but those which affect him only as a member of the community, and in the same way as his fellows, must be made by the authorities which the law has set over him.

"The answer to this is,

"1st. That the authority given in these cases, is not to the corporations, but to the mere appointees of the Legislature, who may, or may not, chance to be a corporate organ for ordinary or special purposes. It is of no consequence, in the view of the Court, by what instrument the power is to be exercised; nor is the assent of the corporators—the parties to be affected—of any importance whatever. Public or municipal corporations are the mere creatures of the Legislature—trustees only of the public—standing upon no contract, and subject to such modifications as

the Legislature may choose to impose, within their appropriate sphere, and without regard to the wishes or consent of the individuals who compose them. *Dartmouth College vs. Woodward*, 4 Wheat. 518. *People vs. Morris*, 13 Wend. 337. In the case of a private corporation, it will not be pretended that any such power could be exercised, aside from the objects of the corporation, without the assent of its members. It is idle, therefore, to talk about a mere *authority*, under these Acts, to the corporation itself, to make the contracts referred to. If they may be *authorized* in this way, they may, and might as well, for all practical purposes, be *commanded*. An absolute power, thus given, is equivalent to a mandate, when executed. The case does not stand upon the footing of *consent*, either express or implied. There is no such thing in regard to *public corporations*. It all resolves itself into a mere naked question of power. It could not be done, as already suggested, so as to bind the members, in the case of a *private* corporation. If it can be done here, it is only by virtue of the power which the Legislature may exercise over a public corporation, and because they can *compel* it without the assent of any of the corporators.

"2d. It is not denied that the authority to make contracts for the public, belongs to all public corporations, and that it may be exercised without their unanimous consent, or without any consent at all. That, however, would authorize no contract beyond the special purposes of the corporation, and it is to such only as are necessary to their existence, that they are claimed by the Chief Justice to extend. These, however, are not contracts of that sort. They are not necessary to the existence of the corporation, and do not, therefore, fall within the Judge's illustration. If they were, no legislation would seem to be necessary.

"3d. But the last portion of the answer admits it to be a question of mere *power*. If the contracts which affect an individual, only as a member of the community, must be made by those who are set over him by the law, then, by the Judge's admission, it is morally impossible to make a case of contract out of it at all. If it is the contract of anybody, it is that of the Legislature; and it comes back, of course, to the question, whether the Legislature can *order* the contribution, and *compel* the corporator to obey; which amounts to nothing more or less than a *tax*, imposed by themselves, for that purpose. And it makes no difference, moreover, what the Act may be. The only condition essential to its validity is, that it shall affect him only as a member of the community, and in the same way as his fellows. The Legislature may oppress and destroy the particu-

lar community, provided they will distribute their thunderbolts with an indiscriminating hand. The magnitude of the crime is to constitute its apology, and companionship in misfortune, to be the consolation of the afflicted.

"It is admitted by the Chief Justice, that the right of acquiring, possessing and protecting property, cannot be taken away, and that our Constitution makes property as sacred as life. It is insisted, however, in reply to the argument drawn from this source, that no man's right to his property can be so absolute as to exempt it from its *fair share* of the public burthens, lawfully and constitutionally imposed; and that it cannot be *assumed* that they are either unlawful or unconstitutional.

"This proposition is doubtless true, as stated, unless the case of the salaries of the Judges, which have been recently holden to be free from that liability, is to be considered as an exception. It is not pretended that the property of any man is exempt from a *fair share* of the public burthens; and if the compelling of the County of Allegheny to make rail roads through the counties of Fayette and Somerset, without any contribution, either from those counties, or from the State at large, is no more than a fair share, where she pays everything, and they nothing, it is admitted that the people thus taxed have no right to complain. The Judge, however, overlooks his own qualification of fairness, and casts it aside as soon as it is uttered; putting the whole case upon an argument from which the admitted considerations of fairness and equality are quietly discarded. The Court was not asked to *assume* that these impositions were either unlawful or unconstitutional, but to *infer* the unconstitutionality, from the very fact that they did want the ingredient of fairness.

"The next remark of the Chief Justice is, that this is not a *taking* of property, because it is merely subjecting it, in a future contingency, to the liability of being taxed higher than it is at present—that to make it so, it must be a direct seizure and absolute dispossession, and that it would be disregarding its popular as well as legal sense, to say that it is *taken*, when it is merely *depreciated* in value, or *incumbered*, or incidentally *injured*; and, least of all, is it a taking when it is *taxed*, because, in such cases, the Constitution requires compensation, which would be absurd in the case of a tax—as it would be merely levying it for the purpose of paying it back.

"And why, it may be asked, would compensation be absurd in the case thus put? The answer is, because all taxation is expected to be fair and *equal*, and general purposes to be accomplished by a general tax, and local purposes by a local one. If, however, a *general* public purpose is to be accomplished by a

local imposition, then the absurdity would cease, and compensation out of the common treasury become essential to restore the equilibrium. And, therefore, it is provided, in the clause regulating the right of eminent domain, that where the property of an individual is taken, or more of one man's property than another's, for a public purpose, the sufferer shall receive compensation. And, in this view, it makes no difference whether you seize the whole property of a *local community*, for a *general* purpose, or that of an *individual*. It is, in the former case, only taking the property of an aggregation of individuals.

"But is it true that such a taxing as this is no *taking*, and that property is not taken when it is only *incumbered* and depreciated in value? It is admitted that a mere *consequential injury* is no technical *taking*, under the authorities; but where has it ever been held that an *incumbrance*, fastened by the Act of the Legislature upon it, and depreciating it materially in value, is no taking? Suppose the incumbrance should result in a *sale*, or so diminish the value as to defeat a prior incumbrance; or, suppose it should extend to the whole value; is it anything better than a *quibble*—a mere piece of hollow and treacherous sophistry—to say that the property is not then *taken*? Is not the liability—contingent, though it be—if it should so *result*, a taking, when it is enforced? Is this argument anything more than to say, that it is only a *power* to take, which may be exerted on a *contingency*, and that it is not a taking, because of the contingency, or the mere possibility that the owner may escape? It is not, however, a mere case of suretyship or contingent liability. It is an absolute *debt*, and the only contingency is, whether the estate of the free-holder shall be called upon to pay it. It is enough that it *may* be taken; and if the spirit of the constitutional provision will not protect it in such a case, it is a mere cheat and a juggle, which 'palters with us, in a double sense, and keeps the word of promise to the ear, but breaks it to the hope.'

"Nor is it any more true, that it would be disregarding the popular and legal sense of the word, to say that property is *taken* when it is merely *depreciated* in value, or *incumbered*, or *taxed*. To say that the levying of a sum of money is a *taking*, even though done under color of the taxing power, is doing no violence to language. To seize the proceeds is, in substance and legal effect, equivalent to a seizure of the *corpus* from which they issue. The law itself treats a devise of the *rents* as a devise of the *land*; and, even if it were otherwise, it has always been supposed that they were equally property, and equally within the protection of the Constitution. If taxation is not a *taking*, it is

not the popular sense of the word which declares it not to be so. It is the constitutional meaning, only, that is referred to; and that is made to vary from the popular one, only on the admitted ground of the absurdity of compensation in that case, which absurdity itself depends entirely on the generality and entire equality of the burthen.

"The Chief Justice does not, however, vouchsafe a protecting regard to the mere revenue of property. Its annual proceeds may be seized with impunity, but it is no taking. The owner may be stripped of the whole value by an incumbrance, but that is no worse. It is sufficient that he is allowed the consideration of a nominal proprietor, although he may be but the steward of the public for its management. The Constitution affords no remedy but for 'a direct seizure and absolute dispossession.' Why, even Shylock reasoned better, when the decree of confiscation was pronounced against him:

"Nay, *take* my life and all, pardon not that.
You *take* my house, when you do take the prop
That doth sustain my house; you *take* my life,
When you do *take* the means whereby I live.'

"The law is not, however, as stated by the Chief Justice. There is no case in Pennsylvania where it has been so held in regard to an incumbrance, and the case from 4th Hill, 147, which has been already cited, shows that the opposite doctrine is settled in New York.

"Nor does the word 'deprived,' in the *eleventh* section of the ninth article, fare any better at the hands of the Chief Justice, than the unfortunate word 'taken.' It is no more, in his estimate, than a piece of vain tautology. 'It cannot be said,' he remarks, 'that a citizen is *deprived* of his property when he is left in the undisturbed possession of it.' Taxation is, of course, supposed to involve no disturbance. The mere *possession*, then, is all that, in his view, is intended to be protected, and it is of no consequence what may be the incumbrance, provided the owner is allowed the ordinary privileges of a tenant at the will of the Legislature, or its delegates. But if these words are not sufficient for the protection of the citizen, are there any others in the vocabulary of human rights, that could answer the purpose, in the estimation of a Judge who demands for a Bill of Rights all the technicality and precision of a criminal law?

"It is admitted, however, by the Chief Justice, that private property cannot be taken for *private* use. This, he says, would be palpably unconstitutional, and so it has been, undoubtedly, decided.

"But why is it unconstitutional? Is there anything in that instrument to forbid it? In the case of *Harvey vs. Thomas*, 10 Watts, 63, the late Chief Justice Gibson says there is not; and when he afterward ruled the point otherwise, he put it mainly on the footing of the natural right. The present Chief Justice says there is; that it is not within the general grant of legislative power; that it would be a gross usurpation of *judicial authority*; and that it would violate the very words of the eleventh section of the ninth article, which declares that 'no citizen shall be deprived of life, liberty or property, except by the judgment of his peers or the law of the land.'

"All this is curious enough. He tells us, in the first place, that the general grant of legislative power would have made slaves of all of us, but for the express reservations; and *now* he informs us, that the power of making a law for such a purpose, without reference to those reservations, does not pass, because it would not be [an] exercise of the law-making power at all! 'It would,' he says, 'be a usurpation of the judicial authority—a *rescript*, and not a *law*; and they could no more make it, than they could condemn an innocent man to death without trial.'

"But how does he make it a *judicial* power? It may be admitted, if necessary, that the effect of some recent decisions of a majority of the same Court, may possibly have been to transfer the property of one man to another. It has not been understood, however, that the *right* of so appropriating it, has ever been openly *claimed* as a *judicial power*. Has the exertion of such a power anything to do with the *interpretation* or administration of the law? Does the calling a *statute* by the name of a *rescript*, make any difference? Is it the less a rule of civil conduct, prescribed by the supreme power? Would it be anything the less a law because it is so denominated? Were bills of attainder and confiscation—now happily forbidden—no laws? Has the Judiciary any such power? How, then, are its rights invaded?

"But this is not all. The section of the Constitution, referred to as prohibitory of such legislation, has nothing to do with it whatever. When it provides that no citizen shall be '*deprived*' of his *property*, &c. except by the judgment of his peers, or the law of the land, it does not abridge the powers of the Legislature, except so far as to prevent them from taking it in any other way, than through the agency of a jury, or by due process of law. *Brown vs. Hummel*, 6 Barr, 91. To interpret it literally, would be no restraint on the law-making power at all, because it would only require the form of a *law*, to nullify the provision, and accomplish the most outrageous injustice.

"But the memory of the Chief Justice is a short one. He has just declared that the word '*deprived*,' in the same section, does not extend to the impairing in value, incumbering, or anything short of an absolute dispossession. How, then, it may be asked, is it to afford protection here, if the Legislature should choose merely to *charge* the property of one man with a rent or annuity for the benefit of another?"

"We have a case, then, admitted by the Chief Justice, wherein there is, in point of fact, no constitutional prohibition, and where, by the strongest implication from the provision in regard to *public* uses only, the power to take—and that, too, even without compensation—might be inferred; and it is submitted, whether the admission of this case, which does, in very fact, rest only on the great general principles of the Declaration of Rights, is not fatal to the rule of the Chief Justice, and equally fatal to all his conclusions?"

"But the Chief Justice, in the next place, forgetting, apparently, that he has put this case upon the footing of a *contract*, now abandons that ground entirely, and takes refuge in the *taxing* power; and this is, indeed, the true question upon which it must eventually turn.

"It is affirmed by him, that this power is *given* to the Legislature without restriction, and to be used, therefore, at their *discretion*, without remedy for the abuse; and that it was not limited, because the exigencies of the Government cannot be limited. Allow me to say that it is not *given* at all. 'It is,' in the language of Lord Chatham, 'no part of the governing or *legislative* power.' '*Taxes* are,' he says, 'the voluntary grant of the people alone.' The power of taxation is an incident of *sovereignty* only; and one of the grounds on which the Colonies resisted it, was, that the principles of taxation were essentially different from those of legislation. 1 Story's Com. sec. 196. The Chief Justice seems to have overlooked the very material fact, that the Constitution of Pennsylvania contains no such grant at all; and that the power is merely an *implied* one, resting on the law of necessity, and limitable, therefore, by that law, as well as to its objects, as to its amount. The reason assigned for its supposed illimitability is, however, sufficient for my purpose, viz: that it is unlimited, because the exigencies of the *Government* are unlimited.

"It is the exigencies of the Government only, therefore, that are to furnish the rule for its exercise; and, judged by that standard, what is to become of the laws in question? Is there anything in the exigencies of the Government to require or

justify a *partial* imposition, such as these, for the *general* benefit?

"The Chief Justice is compelled, however, to admit that the whole of a public burthen cannot be thrown on a single individual, under pretense of taxing him; nor can one county be taxed for the benefit of another, nor one portion of the State to pay the debts of the whole State. And why? Is there anything in the Constitution to prohibit it? The Chief Justice says 'no;' but that these things are *excepted* from the powers of the Legislature, *because they did not pass* to them by the general grant of legislative power; and that they did not pass, because an Act of Assembly, commanding or authorizing them to be done, would not be a *law*, but an attempt to pronounce a judicial sentence, order or decree. It is the theory, he admits, of a Republican Government, that taxes shall be laid equally, in proportion to the nature of property, and when collected, shall be applied only to purposes in which the tax-payers shall have an equal interest.

"If Lord Chatham and the men of the Revolution were not mistaken, there is a still better reason for the opinion that such a power did not pass to the Legislature, and that is, that the general grant had nothing to do with the power of taxation at all. The Chief Justice might have stopped here, however, upon his admitted limitations of this *illimitable* power, and ruled the whole question the other way, and he would have had the merit of being consistent, at all events. If one county, or one part of the State, cannot be taxed for the benefit of another, then these laws are unconstitutional, and the fact that a part of the benefit was to the county or part specially taxed, would make no difference.

"But why would not an Act of Assembly, of the character suggested, be properly a *law*? Because it would be a judicial *decree*. The answer to the same objection, in the Rhode Island case, was, that it *purported* to be a *law*. But the same objection would apply to every tax law, however general. Wherein would it want any of the features of a law? Would there be anything in its want of universality to change its character? Would it be no law, because it operated only on a particular community? If so, then all local legislation, as in the case of road laws, is no law-making at all; then the Acts establishing and enlarging the powers of municipal corporations, are no laws; then the Acts authorizing the people of Allegheny county to be taxed to make a road in Somerset county, are no laws. Would it be no law, because it would be unequal and unjust, and was, therefore, a *bad* law? Would it be a law, if it were equal and universal?

If it would, then it is no law, only *because it violates the principles of justice, and is palpably at war with the whole admitted theory of our institutions*, and not because it is a mere *abuse of power*; for that, he says, cannot be corrected.

"But wherein would it resemble a judicial order, sentence or decree? Is it a question as to the interpretation of a law? Would it interfere, in any way, with the functions of the Judiciary? Would it involve the exercise of any power that belongs to them? Is it their business to impose taxes? And, if so, how is this claim of power to be reconciled with the prudish and fastidious refusal to interfere in the present case, on the ground that the Legislature has almost the omnipotence of the British Parliament, and is the especial and exclusive judge of the manner and extent to which that power is to be exercised? It would have been a more sensible solution, to have said it was not *a tax*, because of its *inequality*—which is a necessary result of its not being a *law*—if he had not already declared that mere inequality is not examinable.

"But the Chief Justice adopts the opinion of the Kentucky Judge, in *Slack vs. Maysville and Lexington R. R. Co.* that a tax law must be considered valid by the Courts, unless it be for a purpose in which the community taxed has '*palpably*' no interest—where it is apparent that a tax thus imposed is for the benefit of others, and where it would be so pronounced '*at the first blush.*' And this, according to his reasoning, must rest on the ground that it is then *no law* at all, and, of course, admits a jurisdiction in cases of *abuse of power*, which he has before repeatedly and solemnly denied!

"The assertion is, however, at variance with the previous paragraph of his own opinion. He there admits that the whole of a public burthen cannot be thrown on a single individual, and that one portion of the State cannot be taxed to pay the debt of the whole; and now, he says, that a tax law must be considered valid, unless it be for a purpose in which the community taxed has palpably *no interest*, which is certainly not the case where a part is taxed for the benefit of the whole; and this inconsistency is excused only on the ground that an unjust law is no law at all, and that to pass an unjust law, is to encroach on the province of the Judiciary!

"If the case referred to, however, be one where the community taxed may have *some possible* interest, and where the burthen is not imposed *exclusively* for the benefit of others, and it would be so pronounced '*at first blush,*' then the present are precisely cases of that sort. No man in his right mind could say that these taxes are not laid for the benefit of others, as

well as of the community taxed; and if this be untrue, then the object itself is not a public one, and the tax would be, by the Judge's own showing unconstitutional.

"But this admission involves a surrender of the whole question. It amounts, in effect, to a declaration that the Courts may declare a law unconstitutional, which is not positively forbidden, and that they may correct an abuse of power. If the thing may be done, where it is apparent, 'at first blush,' that a burthen is imposed for the benefit of others, then the right of the Court to interfere depends only on the extent or enormity of the usurpation, and the manner in which it happens to strike the mind of the particular Judge; or, to speak more correctly, the very question of usurpation depends upon the comparative clearness of the evidence; which is, under the most favorable construction, an affirmance of the right to pronounce a tax law unconstitutional, provided it fall within the general and admitted rule, that the repugnancy must be a clear one. And this is in conformity with the doctrine of *Pittsburgh vs. Scott*, 1 Barr, 314.

"It is further admitted by the Chief Justice that the Legislature has no constitutional right to create a public debt, or to lay a tax for a *private* purpose. And why? Because, as he affirms, no such authority passed by the general grant of legislative power—because it would not be legislation—and because taxation is a mode of raising revenue for *public* purposes. 'When it is prostituted,' he says, 'to objects in no way connected with the public interests or welfare, it ceases to be taxation, and becomes *plunder*. Transferring money from the owners, into the possession of those who have no title to it, though it be done under the name and form of a tax, is unconstitutional, for all the reasons which forbid the Legislature to usurp any other power not granted to them.'

"We do not dispute the doctrine. There is something to be said, however, in regard to the reasons by which it is enforced.

"Why, then, may we ask, would not this be legislation? It would be an abuse of the taxing power, clearly, but it would be none the less legislation on that account, any more than taxation would be the less taxation, because its illegitimacy might entitle it to the character of '*plunder*.' The idea of the Judge, upon which he furnishes a ready solution for repeated admissions and contradictions, is, that the *abuse* or usurpation of a legislative power, is *no legislation at all*. If he is right, then it is a solecism to say that any legislative enactment is in contravention of the Constitution. If it does not harmonize with that instrument, it is no exercise of the law-making power: or, in other words, it is—not a bad law—but, *no law at all*. He is

constrained to admit, that many things would be clearly unconstitutional, which are not clearly and positively forbidden; and he accounts for them all, by declaring that they are not laws, and that the power to make them did not, therefore, pass by a grant which made the Legislature omnipotent! But this assumption, that a law is not a law, besides being inconsistent with his idea of legislative omnipotence, would be an infinitely more dangerous power in the Judiciary, than even the one which he so studiously repudiates. All that he would be required to say of a law, in order to nullify it, would be to give it a bad name, and call it '*plunder*.'

"But what does he mean, when he declares that the transfer of one man's money into the possession of another, who has no title to it, although under the name and form of a tax, would be unconstitutional, for all the reasons which forbid the Legislature to *usurp* any other power *not granted* to them? He has already told us that the general grant carried *every thing*. How, then, can there be a *usurpation*, except it be merely of the things *reserved*? And where is the exception or reservation which applies here? He has before assured us, that there is no limitation of the taxing power, and so says his brother Woodward.

"But how does he make it out that taxation is a mode of raising revenue for *public* purposes only? There is no authority for any such distinction in the Constitution. Unless there be something *outside*—something in the *nature* of the thing—to qualify or restrain, it makes no difference what the purpose is. A levy and assessment upon the property of the people, is a tax, whether the purpose be *public* or *private*, *legal* or *illegal*. When the Kings of England undertook to dispense with Parliaments, and to make arbitrary exactions from their subjects, for their own private purposes, was it ever denied that these were taxes? If the inquiry, however, be as to *legal* taxation, that is another question; and, in regard to that, we will not differ, because the Chief Justice here discards his own rule, by looking *outside*, and taking a common-sense view of the Constitution.

But why is it, that, to make a tax legal, the purpose must be a public one? The Constitution, as already remarked, says nothing about it; and it is, perhaps, for this reason, that the power is claimed to be unlimited and discretionary. *There is a limitation, then, which is not in the Constitution.* The instincts of the Chief Justice tell him so; and where is this limitation to be found? Why, in the very nature and origin of the power itself. It is an *implied* power, resting, like the right of eminent domain, on the law of public necessity, and limited and determinable in its exercise by that law. If the Judge is right in his

premises, it may be used for *any* purpose. By his own admission, however, it cannot. He decides, therefore, in effect, that there is something in the theory and genius of our institutions—in the objects and purposes of our Government—and in the nature of the power itself—which renders an express prohibition unnecessary.

“But, although it is admitted by the Chief Justice, that the Legislature cannot either lay or authorize a tax for a mere private purpose, and that Rail Road Companies are themselves but *private* corporations, it is asserted that they have a public use, and that it is not the quality of the corporation, but its use or purpose, which is to determine the obligation of the community to be taxed for its assistance.

“It is not denied that rail roads may have a public use, and that it is on this ground only that the exercise of the right of eminent domain, or, rather, its delegation for their benefit, can be sustained—if it can be sustained on just principles at all. If it were an open question, it might puzzle the Chief Justice himself to meet some of the objections which might be urged against it. He is entitled, however, to all the advantage which a favorable settlement of this point can give him.

“It may be admitted, then, without damage to the principal question, that any given community may be taxed in aid of the construction of a road, exclusively within its own limits, and that the whole may be taxed in aid of a work of the like description, whether it be, in its extent, either partial or general. The difference, however, between the case put, and those under discussion, is palpable. In the former, they are subjected to a burthen, which is temporary and relievable, upon a change of public opinion, or a change of *masters*. The mere power of *annual taxation* is as nothing in a free Government, where it is controllable by the principle of equality in the distribution. In the latter case, however, they are burthened with a *permanent debt*, for the purchase of a *private stock*, and *compelled*, as a necessary consequence of the doctrine, to mortgage their possessions for the acquisition of a private property, in regard to which, they do, and must stand, in the relation of private proprietors only, and by which rights are acquired that cannot be taken away, and must, in their operation, eventually turn their Charter into a contract, oust the powers of the Legislature, and defeat its own legitimate purposes, by converting it, *pro tanto*, into a private corporation. For the burthens thus imposed, there is, moreover, no relief, for the very reason that they are *partial*, and that the sufferers are thus cut off from the sympathy of their masters, whose tyranny, according to the Chief Justice, is

only to be corrected by giving to the helpless and defenseless victim—the spoiled and trembling vassal—the privilege of ‘scourging’ his armed and multitudinous, unsuffering and unsympathizing oppressors, ‘into retirement’—if he can! The power exerted in this way, is infinitely more portentous than that of mere taxation, in its ordinary forms, even in the wildest example of its exercise which the world has ever witnessed. It is a perpetual mortgage of the property of the citizen—a deep and incurable ulcer—a consuming cancer, eating into the vitals of the community. The distinction was not overlooked by the eloquent and philosophic Burke. ‘To mortgage the public revenue,’ he remarks in his pamphlet on the French Revolution, ‘implies the sovereign dominion, in the fullest sense, over the public purse. It goes far beyond the trust even of a *temporary* and *occasional* taxation.’

“The most pertinent answer, however, to the allegation that the use is a public one, is the letter of the Chief Justice himself, to the Commissioners of Somerset county, in which he denounces these subscriptions expressly as ‘a system of creating public debts, for *private* purposes.’

“It is alleged, however, by the Chief Justice, as a duty of the State, to aid, encourage and stimulate commerce; and it is asked whether, inasmuch as the State may delegate to a private corporation the right of making a road, and aid it by a subscription, which involves an exertion of the taxing power, as well as by the right of eminent domain, it may not, with more justice and greater propriety, and with as clear a constitutional right, *allow* a portion of the people *to tax themselves* to promote, in a similar manner, a work in which they have a special interest? And this question, he thinks, cannot be answered in the negative.

“Nor is it essential to our purpose that it should be. We affirm it, as a matter of course. It is not, indeed, very obvious how the Legislature is to prevent a man from *taxing himself*, if he thinks proper, or why he should require their *permission*. But that is, unfortunately, not the question which was before him. It is not a question whether *the people* may be *allowed* to *tax themselves* for a public work, in which they may have a special interest; but whether they may be taxed *against their will*, by the agents or appointees of the Legislature, for a public work in which the *Legislature* itself, or its agents, may *suppose* them to have a special interest. He says he cannot conceive of a reason for doubting that what the State may do in aid of a work of general utility, may be done by a county or city for a similar work, which is especially useful to such county or city,

provided the State *permits* it to be done by their local authorities—thereby putting it again upon the ground of *assent*, which is not now the question, and which has been already shown to be utterly indefensible, as the present argument proves it to have been abandoned.

“Perhaps, however, I can furnish him with the reason which he has failed to discover. The State may, undoubtedly, aid a work within its own boundaries. To go beyond, for purposes of international commerce, would be to invade, either the sovereignty of its sisters, or the prerogatives of the Federal Government. If the county or city were co-extensive with the State, the reason might be wanting. But for a county or city, which is but a small part, to do what the State may, would be to invest it with extra-territorial powers and capacities, of a much higher order, comparatively, than any which belong to the State itself; and it might be replied, with equal force, that, if a mere local corporation may be authorized to extend its operation beyond its own boundaries, there is no reason for doubting that the State might be authorized to do the same thing. The State is acting upon a matter within its jurisdiction. It is doing what the Judge says is a *duty*. The corporation, on the other hand, would be acting, not merely beyond its jurisdiction, but entirely beyond its sphere, and outside of the line of its appropriate duties. The *permitting* it to be done, moreover, is, where the agent is named by the Legislature, equivalent to a *command*, when done. Nor does the reference to the local authorities make any difference. They are not the local authorities for any such purpose. They are, *pro hac vice*, the agents of the Legislature—deriving their powers, not from the people, or from their assent, but from the Legislature alone. And, therefore, the proposition is, that what the State may do, it may *compel* a county or city to do, if it should *suppose* the work to be especially useful to them, although it is admitted to be for the benefit of the whole.

“It has been repeatedly remarked by the Chief Justice, that such and such things are not an exercise of the law-making power. If this language be admissible in any case, it may be said, with equal propriety in regard to the legislation complained of here—neither is this. It is, in point of fact, nothing but the *grant* of a special privilege—a mere incorporeal right, involving nothing of the nature or definition of a law at all—a privilege, in one view of the Chief Justice, given to A to *tax* B, and in the other to B, to *allow* himself to be taxed by A.

“It might have been expected, in all fairness, that the Chief Justice would have taken his stand upon some one principle. Feeling, however, that his footing is not a firm one, he rests on

one limb until it begins to tremble under him, and then shifts over to the other. *Now*, it is merely a *permission* to the people to make a *contract*, and to tax themselves. When this ground fails, he throws himself on the *compulsory obligation*, and the exertion of the *taxing power*; and thus it is that we are to be ground to death between two contradictory propositions, which are made to supplement and fortify each other, as the occasion happens to demand. We are doomed, apparently, to perish in some way; and if he cannot drive us to suicide by putting the knife in our own hands, he seems determined, at all events, that the sword of the Legislature shall be invoked to consummate the sacrifice.

"It is asserted, in the next place, by the Chief Justice, that the powers of a municipal corporation may be enlarged by the Legislature—not so 'as to enable the corporate authorities to embark the city in a *private* business, or to make the people pay for a thing in which they have *no* interest—but that, *within these limits*, there is nothing to prevent an indefinite extension of them.'

"The limitation here admitted, is at war with the opinion of his associate, Woodward. Assuming it to be correct, the answer is, that a subscription to a rail road is necessarily a *private* business, whether made by a corporation or an individual, and without reference to the possible public uses of the road itself, for the obvious reason that it involves the acquisition of a private property, which is beyond the power of the Legislature, and converts the corporation into a *common carrier*, with all the hazards and responsibilities of that relation. The authority for this answer is to be found in the *concurring* opinion of the same Judge Woodward! A further answer, however, is, that, under the rule just stated, they may be compelled to pay the *whole*, on the hypothesis that they have *any* interest at all, although that interest may be, confessedly, a trivial one.

"But what is the power of the Legislature over municipal corporations? A charter, of that description, is already shown to be no contract. If it were, it could not be changed at all, without the assent of the corporation. Although, however, it is no more than a mere delegation of governmental powers, it is affirmed by the Chief Justice, that these powers may be enlarged, with no other limitation than as already stated. If this be so, then the Legislature may abdicate its trust entirely, and turn over all the affairs of Government to these corporations—may make them, indeed, in all respects, equal with itself—nay, greater; because it may authorize them to do what it could not do itself; and this, too, not on the footing of *assent*, but in virtue of its own sover-

eign, transcendental and unquestionable power, and in contravention of their expressed will.

"But what is a *private* business, and where is the case in which the corporation has *no* interest, in the opinion of the Chief Justice? If the object be to promote the interests of *commerce*, he asserts that it is a *public* one; and the establishment of a steam boat or a stage line, would, on the same principle, be as legitimate as a rail road. Nay, if it were even a question of the establishment of 'a tavern, store, mill, or blacksmith shop,' which are cited by him as mere cases of '*private* enterprise,' in which the right of eminent domain cannot, for that reason, be conferred, the result would be the same, because these are alike aids to commerce or trade, as well as other departments of industry, which the Government is equally bound to encourage! Nor can any ingenuity of the Chief Justice avail to extricate him from the exceedingly awkward dilemma, and the no less absurd consequences and contradictions, into which his own principles inevitably carry him. He may stand sullenly upon his opinion, and refuse to confess and repair the error, but he cannot defend it.

"But still further. If the obligation of Government to encourage trade or commerce, upon which he puts the right of taxing a given community in aid of it, is not sufficient to entitle the 'tavern, store, mill, or blacksmith shop' to be saddled upon that community, without the element of a special interest, it is not necessary even to locate it within the jurisdiction which is taxed for its support. It is sufficient that the Legislature, and its agents, have decided. As those who bestow the power, and those selected by them for its exercise, are to be the sole judges of the interest, wherever it is once given and exercised, there is, of course, an end of the question; because *that* is a decision upon the point of public and *special* interest. Wherever they act, they have decided.

"It is, however, not merely admitted, but insisted, by the Chief Justice, that if it be the interest which is to decide, the location is unimportant. And he is right there, upon his principles; not for the reasons which he assigns, but for the better and more conclusive reason, which has been just suggested—if his own Court had not already decided otherwise, in the case of *M'Dermond and Kennedy*, Brightly's R. 332.

"Disregarding, however, a solemn adjudication of the same Court, which did decide *this* question, and *no other*, viz: the question of *interest*, simply *as affected by location*, and not the abstract right of *subscription*, the Chief Justice proceeds to illustrate this extravagant and revolting proposition, by suggest-

ing that, if the City of Philadelphia cannot have an interest in a road which stops in the Northern Liberties, then Dock ward cannot have an interest in one which terminates in Delaware ward, and all the subdivisions of the city may be exempted on the same score. Let us examine this argument.

"If it were a question of taxing a mere ward of a city, or *one* corporation to make a road or improvement in *another*, the case would furnish a reasonable analogy, and the party thus taxed might very properly rebel. The Chief Justice, however, forgets that the wards in question are both parts of the same city. He cannot deny that what she may do for *the whole*, she may do for *a part*, at the expense of the *whole*, although she may not do it at the *exclusive* expense of another *part*. If it were not so, no corporation could pave a single street, or even all its streets, in any other way, than by one simultaneous act, which would be almost physically impossible. It is not true, therefore, that Dock ward might, in the case put, be exempted on the same score, any more than it is true that any one part of the State could be exempted, because a State work did not pass through it. It is only on the footing of the general interest, that a tax could be laid at all; and if a road made through one county only, was not for the general interest, it could not be made at the general expense. The Judge cannot, apparently, see that the whole is necessarily composed of *parts*, which are comprehended within it. With him, it is *pars pro toto*, and a part only includes the whole. If it be true, however, as affirmed by him, that a city has the same interest in a road *outside*, as if it were within, then the argument necessarily renders the power *illimitable*, and shows that there is nothing, within the range of human imagination, in which she *may not* have an interest.

"The illimitability of the power is, however, a necessary inference from the remark, that 'it is enough to know that the city *may* have a public interest in the enterprise projected, and that there is not a *palpable* and clear *absence* of all *possible* interest, preceptible by every mind, at first blush.' There is no imaginable project, though it were a rail road to San Francisco, and a line of steamers thence to China, in which, under this view, the city might not be claimed to have a *possible* interest. And it is enough, according to his judgment, that the point 'has been settled by her own officers and by the Legislature;' the effect of all which is, to convict the Judge of an absurdity, in admitting that a community cannot be taxed for that in which it has *no* interest, because it decides that the occurrence of any such case is impossible.

"It would, moreover, he suggests, be a novel jurisdiction, to listen to an appeal from the Councils on a point of local policy, or to declare a law unconstitutional, because the corporate authorities mistook the true interest of their constituents.

"I beg leave to say to the Chief Justice, that it is, as he well knows, no new jurisdiction, to hold the authorities of a corporation to the purposes of its charter, when their notions of policy prompt them to do that which is not within the scope of its institution, although they might seek to defend themselves under the color of a legislative license. Nor is it a fair statement of the question to say that the Court was asked to declare a law unconstitutional, because these authorities had mistaken the interest of their constituents. They are, *pro hac vice*, as already remarked, only the agents of the Legislature, and may, or may not be, the proper authorities of the corporation. For these purposes, certainly, they are not so, if they do not legitimately fall within the scope of a municipal administration. The question is, whether they exceeded their just powers, in passing beyond their appropriate jurisdiction, on the hypothesis that they might do whatever either they or the Legislature might adjudge to be for the interest of the community; and not, whether they made a mistake in the exercise of a discretion vested in them by the law, in a case clearly within their jurisdiction. And if this is an answer to the appeal, there is no abuse of power, which the officers of a corporation, either public or private, may not perpetrate with impunity.

"But the Chief Justice insists that we must take it for granted, that the Councils and Mayor have fairly represented the majority of their constituents; admitting, however, that their acts may operate with great hardship on the minority, but asserting that, in this country, it is *private* affairs only, and not public ones, that are exempt from the domination of majorities; and confessing 'that the power of piling up these enormous burthens on the people ought not, perhaps, to exist in any department of the Government, and that, if our fathers had foreseen the fatal degeneracy of their sons, it can scarcely be doubted that some restrictions on it would have been imposed.'

"And why must it be taken for granted that the authorities referred to have fairly represented the *majority*? The people themselves have not been allowed to pass upon these questions, and the presumption that they would have approved, is repelled by the significant fact that the privilege of passing upon them, was, in every instance, cunningly denied to them. Is any approval, then, to be inferred from the circumstance, that the officers selected are men of their own choice? That inference

would be a fair one, so far as regarded the exercise of any power belonging to the office at the period of the election. For anything beyond, however, and out of the line of their proper administrative functions—for any new, unusual, and extraordinary power, bestowed by the Legislature, *upon the individual*, what plausible reason can be urged for inferring the assent of those who could not have anticipated it, did not confer it, were not consulted, and not even allowed the privilege of dissent? In some cases, the power has been bestowed on County Commissioners; in others, upon Grand Juries, who are not even chosen by the people, but are selected and drawn from a wheel by the Sheriff and Commissioners. Is there any presumption of assent in these cases? They do not differ, however, in principle, from the former. These men are all but the agents or appointees of the Legislature for this purpose, and it is equally idle and uncandid to assume the assent of a majority of the people, as an apology for this species of oppression. If it cannot be defended on better ground, the defense ought to have been abandoned.

“It is not disputed, of course, that in this country, it is private affairs only, and not public ones, which are exempt from the domination of majorities. It seems to be forgotten, however, that it is upon this exemption that the rights and liberties of the individual citizen mainly depend. The idea of a majority rule, is a purely *political* one. The chances of oppression are, it is true, diminished in proportion as we approach the ideal line of *unanimity*; but, short of that, there is no special magic—no more inherent virtue, in the awards of a *majority*, than in the government of the *monos*, or the *oligoi*, or the *aristoi*. The secret of our freedom does not consist, as is supposed by Justice Woodward, in the exercise of the powers of legislation, through our own Representatives. He is but an ill-read statesman who would look for our securities there. All experience proves that there is no tyranny more grinding than that which may be exercised by a triumphant majority, and that it is only in the restraints to which it is subjected, that freedom can ever find repose. It is passing strange, therefore, that, in view of so important a fact—that it is private affairs only—the very affairs which Government was designed to protect, and without which, it would be but an expensive, and worse than useless machine—that are exempt from the domination of majorities—the Chief Justice of Pennsylvania should have sought to circumscribe the narrow circle of exemptions, and consented to sacrifice the end to the means! It was the brave Madam Roland, I believe, who exclaimed, as she was led to the scaffold, ‘Oh, Liberty! Liberty!’

how many crimes are perpetrated in thy name!' How much more reason have the victims of the governmental principle of a majority, so applied, to repeat the language of a great statesman and lawyer of the Revolutionary era—himself a signer of the immortal Charter of our Independence, and a member of the Convention which framed both the Federal Constitution and our own—who, in view of the like abuses of construction, was forced to exclaim:

“‘How often has the end been sacrificed to the means! Government was instituted for the happiness of society. How often has the happiness of society been offered as a victim, to the idol of government! But this is not agreeable to the true order of things. It is not consistent with the orthodox political creed. Let Government—let even the Constitution, be as they ought to be—the handmaids; let them not be—for they ought not to be—the mistresses of the State.’ 1 Wilson’s Works, 304.

“The confession, that this monstrous power ought not, perhaps, to exist in any department of our Government, is a precious one, which ought, in reason, to have borne more satisfactory fruit, than a mere expression of condolence and commiseration. The suggestion, however, that, if our fathers had foreseen the fatal degeneracy of their sons, it is scarcely to be doubted that some restrictions on it would have been imposed, is a reflection upon their wisdom, which the successful result of their labors has not heretofore deserved—and, which seems to come with no very peculiar grace, from the very first of our Judges, who have verified their want of forecast or sagacity. It is doubtless true, that, if they could have foreseen the possibility of such a degeneracy of Republican sentiment—such an entire oblivion of the memorials of their own struggles, as to have led their descendants into the notion that they had *lost* their liberties by the Revolution, and that there was nothing left now to us, but the very *letter* of the reservations made by them for our security—that the Government was everything, and the people nothing—and that in every conflict between them, the former was to be favored in the construction, and the latter sacrificed—they would have pretermitted the Declaration of Rights, as an instrument of mischief, instead of a safeguard of liberty. To have *amended* it, in such a manner, as to meet every possible case of usurpation, by a positive interdict, or to satisfy the requirements of the Chief Justice of Pennsylvania, would have been utterly impossible. They might have spun it out to the dimensions of the whole body of the Civil and Canon Laws—code, digest, institutes, pandects, glosses, rescripts, decretals, and all. It would have been in vain. They would have exhausted their own ingenuity,

before they could have exhausted the superior inventions and resources of tyranny. Their work, however, has stood for nearly a century, without the discovery of this capital defect, which the last year only has developed. The securities which they have thrown around our rights, in the shape of general *principles*, have been found adequate to every exigency for which they have been invoked; and after this long experience, it would seem to be at least more reasonable, if there is a breach now made through these defenses, to set it down to the account of the negligence of the sentinels, than to the weakness of the intrenchments; as it would be, certainly, more modest to doubt our own wisdom, than to question theirs.

“Having thus disposed of the opinion of the Chief Justice, I come now to that of his brother Woodward, which I propose to examine, mainly for the purpose of showing, as already remarked, that upon the admissions of the former, the latter would have ruled the question the other way; while upon the premises of the latter, the Chief Justice would have paid him the same compliment.

“While the obligatory force of these Acts of Assembly, is put, by the Chief Justice, on the hypothesis that they convey a mere *permission* to the local communities, *to make a contract* for themselves, and upon the footing of a supposed assent on the part of a majority of the people, who are to be affected, his associate, who now commands our attention, with a directness, candor and courage, which do him, perhaps, more credit than the force or ingenuity of his argument, marches up at once to the encounter of the true issue, which he is called upon to meet, and admits that the case involves no other question than one of mere naked *power*—and that, the power of *taxation* only.

“His argument is briefly this:

“That the Acts in question *do* involve, in their consequences, a *taking* of property:

“That there are but two modes in which it can be lawfully taken—one, by virtue of the right of eminent domain, and the other, by the exercise of the taxing power: That it is not taken, in the present case, by force of the former, because that has respect to the property of individuals, of all descriptions, *except money*, and is regulated by the *public exigencies*: That it is taken by virtue of the latter only, which regards *the whole community*, or whole classes, *takes nothing but money*, except so far as other property may be sold to pay it, and is regulated by some standard *prescribed by law*:

“That taxation is a *legislative* power, not named in the Con-

stitution, but existing *ex necessitate*, and not taken away by the Declaration of Rights:

"That it cannot, of course, be *delegated*, but may be *exercised* through *agencies*, which is not *delegation*, but rather *exercise*, and, in providing for the re-payment of borrowed moneys, is rather of the nature of an *executive* power:

"That the purpose of these Acts is, clearly, not a municipal one. There is no congruity whatever, between their objects and the legitimate purposes of municipal corporations, which are designed to regulate only the internal affairs of the places in which they are located, and whose jurisdiction is properly exercised only within their territorial limits, and over subjects which pertain to their domestic economy and well being:

"That the power of taxation is, however, unlimited, both as to *extent* and *purpose*—that municipal corporations are, moreover, not defined by law—that the power of the Legislature to *enlarge* their functions and extend their privileges is unlimited under the Constitution, and indefinable by the Judiciary—that these Acts are not to be set aside, because they do not harmonize with the judicial notions of a municipal purpose—and that upon grounds *so low* as the *equivocal* and *undefined* purposes of municipal corporations, the like has never been done:

"That, moreover, the Declaration of Rights is not to be set up against a tax law: That there is nothing there to restrain the power of taxation, and nothing alarming in this circumstance: That our only security is in the principle of popular representation—that it is this which makes us free, and a reliance on this, which has left this enormous power without stint: That it has been always used for beneficial purposes, and it is not clear that it may not, in the present instances, however incongruous, be productive of good: And that it is altogether certain, that it cannot be *long abused*, because 'so long as the people rule themselves, it is impossible to anticipate that they will employ any of the powers of Government for their own oppression.'

"My purpose is not to review the opinion of Justice Woodward. It presents some salient points, however, which are so obnoxious to, and so provocative of criticism, that it is almost impossible to resist the temptation to bring them under the operation of the dissecting knife.

"His suggestion, for instance, that the right of eminent domain has no respect to *money*, because the compensation must be in *money*, is the result of a grave blunder in political science. He looks for the definition of that right in the Constitution. It does not seem to have occurred to him, that it is an

essential attribute of all sovereignty, and is only *qualified* by the provision as to compensation; that it is inherent, inalienable, indefinable, and, of course, illimitable, like the power of taxation, except by the legitimate exigencies of the Government; that if these exigencies require *money*, it is no where provided that it may not be taken, as well as anything else; and that, if taken, it may be as well recompensed in kind, although no more than money for money.

"His distinction, however, between this right and that of taxation, that the former affects *individuals*, and the latter the *whole community*, or *whole classes*, is a confession that the Acts in question are not legitimate taxation, because they do not affect the whole community, or even an entire class, unless he intends, by individuals, something less than the inhabitants of a particular district, and by the whole community, only a part of the society or governing power, by which the laws are made. The distinction, rightly understood, is admitted to be a sound one; and it is precisely upon this, that the exercise of the power claimed here—if legitimate at all—is to be set down to the account only of the right of eminent domain, and to be employed, therefore, if employed at all, upon the condition of compensation to the victims.

"The admission, moreover, that a power like this is not subject to *delegation*, while it is claimed, at the same time, to be exercisable by *agencies*, is another curious feature of the argument. If the learned Judge had vouchsafed to explain the difference between an agency and a delegation, we might, perhaps, have understood him. If he had put the case of the performance of a mere *ministerial* function, every well-read lawyer would at once have recognized a case of lawful delegation, without even suspecting a distinction between such a devolution of power, and any other case of agency. He could not, however, put it very consistently on that footing. It was too clearly a *discretionary* power to *tax*, and not a mere power of assessment or collection. It was a *quasi-legislative* power, at all events. As a legislative power, however, it could not, of course, be *delegated*, and it is accordingly converted into an *executive* power.

"The strangest part of the argument, however, is that which refers to the power of the Legislature over municipal corporations.

"It is admitted, that the purpose of these Acts is clearly not a municipal one; but it is claimed, that, inasmuch as municipal purposes are not defined by law, and the power of taxation, and the authority to extend their privileges, are alike unlimited by

the Constitution, their purposes may be *changed*, and that made a municipal one, which was not so before.

"It has been no very unusual thing to hear extravagant claims set up in favor of legislative power, from the era of Justice Blackstone down to that of Chief Justice Black; but there is nothing, we think, in the opinion of any prerogative lawyer who has yet spoken, which will compare with this idea of Justice Woodward. The great English Commentator, in expatiating on the omnipotence of the British Parliament, reins up at the *impossible*. The Judge, whose opinion we are now examining, stops short at no such obstacle. He spurs his fiery courser up to the line of *the moral impossible*, and clears it at a bound. In his view, the Legislature can alter, not merely the *name*, but the very *nature* of things. They can disturb and overturn all moral relations, change the uses of language, make that municipal which is admitted to be essentially not municipal, and turn a *public* corporation into a *private* one, without changing its character! Why, even Omnipotence itself could not accomplish such a feat as this, any more than it could convert a man into a brute, without his ceasing to be a man.

"To say that municipal corporations are not defined by law, is to hold language which could scarcely have been expected from so respectable a lawyer as Judge Woodward. If the lexicographers will not answer the purpose, it is not for me, certainly, to inform him that the meaning of the phrase is so well ascertained in the law books, as to have become the basis of a most important distinction as to the right of interference by the Legislature with the Constitution of corporate bodies. He has not ventured even a doubt himself, as to their objects. He does not hesitate to define their appropriate jurisdiction and purposes, and to declare that the Acts complained of are entirely foreign to them. He is estopped, therefore, from asserting that these purposes are either equivocal or undefinable.

"When he affirms, however, that these Acts are not to be set aside, because they do not harmonize with the judicial notion of a municipal purpose, and that, 'upon grounds so low,' no Act of Assembly has ever been declared unconstitutional, he not only forgets that it is precisely upon the distinction between a public or municipal corporation and a private one, that the whole power of the Legislature depends—that the Charter of the former is not a contract, but a mere delegation of governmental powers, to which there is but one party, and which, for that reason, may be conferred, enlarged, abridged or withdrawn, at the pleasure of the Legislature; but he forgets, also, that whenever the question arises as to the right to intermeddle, without

the assent of the whole body, it must be decided by *himself*, as a Judge, upon the footing of those very 'equivocal and undefined purposes,' which are now supposed by him to be too low for judicial consideration. When he admits that the purposes of these Acts are not municipal, he surrenders the whole question, and decides, in effect, that they are not constitutional; and no ingenuity can save him from this consequence.

"The next, and last feature of the argument, upon which I shall observe, is the remark, that the Declaration of Rights is not to be set up against a tax law; and this is, perhaps, a fair result of the notion, that while the right of eminent domain is regulated by the public exigencies, the exercise of the taxing power is regulated by something else—*by some standard prescribed by law*; or, in other words, by no measure at all. If it be true that this enormous power may be wielded, at the pleasure of the Legislature, without regard to the public exigencies, and to the oppression of any given portion of the people, then it is unquestionable that there is nothing in the Declaration of Rights, or anywhere else, that can be set up successfully against a tax law. To say that it may be, however, is more than the Chief Justice himself has ventured to maintain—more, perhaps, than could reasonably have been expected from an American Judge—and more, certainly, than can be safely or consistently admitted by any people pretending to be free.

"We are assured, however, that there is nothing alarming in all this—that it is a reliance on the principle of popular representation—which makes us free, and is our best security, at last—that has left this enormous power without stint; and that there is no danger of its abuse, for the reason, that the people are not likely to employ any of the powers of Government for their own oppression.

"It is difficult to decide, upon the reading of this passage, whether it is most distinguished by its forgetfulness of the reasons which led to the adoption of our Constitution, with its nice distribution of power, and the complicated system of checks and balances, by which it is distinguished, or by the total oblivion of the teachings of all history, which it betrays. If the Judge is right, all *limitations*, and, therefore, all Constitutions, which are, in effect, but limitations of the power of majorities, are worse than useless. When he asserts that it is the principle of popular representation which makes us free, he discloses a faith in the integrity of the Representative, and the moderation and forbearance of majorities, which partakes more of the charity which is blind to our infirmities, than of the knowledge which edifies and saves; and with it, a feeling of

security, which was not shared with him by the founders of our Republic. When he alleges that the most formidable of all the powers of Government has been left unguarded, on the assurance that it was impossible for the agents of the people to abuse their trust, he impeaches the wisdom of every restraint to which they have been subjected. And, to crown all, when he informs us, that so long as the people rule themselves, it is impossible to anticipate that they will employ any of the powers of Government for their own oppression, he employs a topic of consolation, which is only intelligible, so long as taxation is equal and universal, and is entirely unmeaning, upon the theory of partial impositions, and illimitable power, to which he has just given his express and emphatic sanction.

“The argument of the Chief Justice, admits that the taxing power is not unlimited—that the Legislature has no constitutional right to lay or authorize a tax for a mere *private* purpose—that the whole of a public burthen cannot be thrown on a single individual, or one county taxed to pay the debt of another, or one portion of the State, to pay the debts of the whole—that a tax law would be invalid for a purpose in which the community taxed have palpably *no* interest, or where it is apparent that a burthen is imposed for the benefit of *others*—that location does not determine the question of interest—and that the charter of a municipal corporation cannot be so enlarged, as to enable the corporate authorities to embark it in a private business, or to make the people pay for a thing in which they have no interest.

“Judge Woodward repudiates all these exceptions, rejects all qualifications, even to that of *equality* of burthen, and expressly declares that the power of taxation is absolutely illimitable, and that there is nothing in the Declaration of Rights which can be set up against a tax law; and *therefore* it is, that he sustains the legislation in question, without regard to any of these considerations. On the hypothesis of the Chief Justice, however, he must have decided otherwise. He does not undertake to say—because he does not regard it as material—whether these Acts involve any inequality of burthen; but he does say, that they convert the municipality into a member of a merely private corporation, by making it a common carrier, with all the hazards and responsibilities of that relation, that the purpose is one which is incongruous and inappropriate, and that rail roads, to connect distant points of country, to develop physical resources, and to promote commerce, come not within, or near to that class of objects, which we have been taught to consider as municipal purposes. He

thus declares, in effect, if not in terms, that the *business* is a *private* one—as it unquestionably is—and that it does not *concern* the municipality—which is only a translation of the term *interest* into plainer English. He thinks, it is true, that mere legislation may change the nature of all this, so as to render a private and extra-territorial business a municipal one, and, *therefore*, he sustains it upon grounds which the Chief Justice admits to be untenable—while, upon the admissions of the latter, he must most unreservedly have condemned it.

“And so, too, *e converso*, upon the admissions of Judge Woodward, that the business is a *private* one, and one which does not properly concern a municipal corporation, as such, must the Chief Justice, with his acknowledged limitations of the legislative power of taxation in such case, have pronounced the legislation in question to be unconstitutional. And such, also, would doubtless have been the result of his argument, if he had treated the question in its rigor, like his brother Woodward, upon the footing of a mere exercise of the taxing power, instead of softening it down into a mere act of gracious condescension on the part of the law-giver, in vouchsafing to the community the lofty privilege of taxing themselves—*by construction*.

“Setting out, therefore, from opposite poles, the Judges in question have drifted into the same channel, and made shipwreck of our institutions and fortunes, upon the same fatal and inhospitable shore. If it had been their fortunes—and ours—to start together from the premises of either, they must inevitably have parted company on the voyage, and one of them, at least, have joined hands with his two dissenting brethren, in upholding the pillars of the Constitution, and maintaining the sacred guarantees of property. They have agreed, however, in deciding that it is without security, and that one of the declared purposes of our Government has failed, through an oversight on the part of its founders! They have concurred in the death-dealing judgment, that the framers of our Constitution have not spoken out their purposes, and that they themselves are helpless.

“Since the foregoing remarks were penned, the opinion of Justice Knox has also come to us, through the reports. It is very summary and somewhat epigrammatic; stating its conclusions without the risk or labor of reasoning them out, and forming what might very well serve as a compendious manual of legislative despotism. It would be unfair to overlook it. A few remarks, however, will dispose of it.

“The tests are, he says, whether the Act is in the nature of a legislative power—and if so, whether the Constitution

expressly or by *necessary implication* forbids it. If not legislative, it is forbidden, he thinks, by necessary implication; and it is by the same rule that he deduces, from the organization of a Judiciary, the conclusion that it is supreme and exclusive.

"Taking the creation of a municipal corporation to be an exercise of legislative power, he agrees with his brother Woodward that there can be no limits to its *extension*. Admitting, however, that laws may be thus passed, which will, in the minds of many, be contrary to natural justice, and subversive of the just *rights* of the people—he sees no remedy but in further restrictions of the power of the majority.

"Deploring the danger of annulling an Act, without a *fixed* rule, and a *written* one, he tells us that we are without remedy, because he can find no prohibition in the *letter*. The clause which prohibits the taking of private property for public use, has been shown, he thinks, by it; and his brethren—not to embarrass, he agrees with *them* that all this is *taxation*, and that there is no restraint but in the accountability of the representative to his constituent. To show this, he refers to 4 Wheat. 428; and the case of *Kirby vs. Shaw*, in 7 Harris, 258, is then invoked to prove, in addition, that all the power of the people passed by the general grant, except what is specifically reserved, and that as they were not sharp enough to make a bargain for *equality* in the Declaration of Rights, they have no title to such indulgence, unless the Legislature think proper to accord it to them.

"For these reasons, he thinks that these Acts are constitutional, and that the subscriptions may be enforced by taxes assessed on the *taxable citizens of the corporation*. The expediency of the subscriptions themselves is a question which belongs, as he says, to the people—to be determined either by themselves, or by their selected agents.

"And now a word as to all this:

"The first remark which it suggests, arises out of the frequent recurrence of the terms 'necessary implication'—a form of speech which seems to have found its way into the vocabulary of the *literal* interpreters, from the obvious necessity of devising some means of escape from the monstrous results into which a too rigid adherence to the *letter* was constantly leading them. Its meaning, however, has never been very well defined, although its uses seem to be manifold. Thus, we are told in one breath, that a power which is not legislative, is forbidden by 'necessary implication,' and not because it is 'not nominated in the bond;' and in the next, that the Judiciary is supreme and exclusive, *by the same rule*, just because it is an organized Judiciary. The former of these uses finds its explanation in

the modern notion of inherent legislative omnipotence. The reason of the latter is not so apparent. To say that a grant of one thing excludes another and a different one only by 'necessary implication,' is intelligible only on the hypothesis that a grant of legislative power is something different from a grant of anything else, and is to be governed by none of the usual rules. To infer, however, that a thing is supreme and exclusive by necessary implication, or any other rule, merely because it *exists*, is something in the way of logic which is not so easily explained. It is akin, however, to the idea of Judge Woodward, to which he implicitly subscribes, that if the Legislature can make a municipal corporation, it may extend it so far as to make anything else out of it which is within the compass of human invention.

"There is no objection, however, to this rule of construction, except that it should have found favor with a Judge who professes to be satisfied with nothing short of a *fixed* rule, and a *written* one, and will not consent, upon any consideration, to look beyond the *letter*. If it is good for one purpose, however, it ought to be good for another. If it may be legitimately and successfully invoked to protect the *Judiciary* from encroachment, one would suppose that it would cost no very great sacrifice to extend to it the rights and property of the *citizen*. The Declaration of Rights proclaims that one of the great objects of this Government is the security of property, and that no man's property shall be taken from him without compensation. Is there not a tolerably fair implication from all this, that it shall not be taken under the pretense of protecting it, or under color of an authority which is itself only implied?

"The indefinite power of extension, to which Judge Knox subscribes, in accordance with the views of his brother Woodward, has been already examined in the review of the opinion of the latter Judge. Nor is there any more originality in the idea, that the only remedy for a law which may be contrary to natural justice, and subversive of the just *rights* of the people, is in further restrictions of the power of the majority—which may turn out to be impossible, if they have an interest in refusing them.

"The difficulty of Judge Knox is admitted to be, as with his brethren, the absence of the *letter*. He agrees with them, that the taking of more of one man's property than another's, for the use of Government, is not the case provided for by the clause which prohibits the taking of private property for public use, without compensation; and *says* he agrees with *both* that these are *tax* laws, and that there is no restraint upon the power, but

in the accountability of the Representative to his constituent. He is mistaken. There is a difference between his brethren on this point. The Chief Justice admits that there is a limitation in the very nature of the power, which Justice Woodward altogether denies. It is impossible for him, therefore, to agree with *both*. He follows the latter only, and even he has surrendered his position in a later case, (*Schenley vs. Allegheny City*, 1 Casey, 128,) wherein he concedes that there may be cases wherein the abuse of such a power may be corrected; that where the exercise of the taxing power becomes wanton and unjust, or is so grossly perverted as to lose its character as a legislative function, the Judiciary will feel themselves entitled to interfere on constitutional grounds; and that taxation is fair and legitimate only when it imposes the burthens exactly where the benefits are conferred.

"The case referred to, from 4 Wheat, 428, is nothing to the purpose. The observation quoted from Ch. J. Marshall, that the exercise of the power of taxation is only to be limited by the exigencies of the Government, has nothing to do with the question of *equality* in the assessment. The Republican spirit, and strong practical good sense of that eminent Judge, would have revolted at the idea of *inequality* in a Government like ours. The case of *Kirby vs. Shaw*, from 7 Harris, 288, is admitted to be somewhat more to the purpose. It is, however, at war with the settled doctrine of the Supreme Court of the United States, as shown in the case already cited, as well as with the admitted limitations of the Chief Justice, and his brother Woodward, and is so repugnant withal to common reason, and every idea of Republican freedom, that if it had been ruled a score of times, it is no more to be considered a just and binding exposition of our Constitution, than the decision of the seven Judges of Charles I. in the case of the ship-money, was of the Constitution of England. It was the royal prerogative which conquered then. But it conquered no peace, and settled no principle. It is the prerogative of the *Legislature* which is the fashion now. This, however, is but the transfer of an undistinguishing and unresisting loyalty, from one tyrant to another—from a hereditary monarch to an elective one, whose temptations to abuse his power will be precisely in the inverse ratio of the briefness of his authority. It will not, however, outlive the day. It will perish with the Judges who invented it, and, if I mistake not, long before them.

"The idea that the taxing power is subject to no restraint whatever, because there is no express exception or limitation in the Declaration of Rights—an idea which was common to

Judge Knox and his brother Woodward, until repudiated by the latter in the case of *Schenley vs. The City of Allegheny*, is one which is not undeserving of an additional remark. He is concerned that the *letter* is not there. And why should it be? The power itself is not in the Constitution. It is an *implied* one, merely. It is limitable in its nature, and by the very necessity out of which it arises. It is, moreover, of substantially the same character as the right of eminent domain, because, like that, it takes private property for public use. The latter differs from it, only in taking more of one man's property than another's. When taxation becomes *unequal*, it passes, by an easy transition, into the other power. When the Legislature does so deal, however, as to take more of one man's property than another's, the Declaration of Rights steps in, and expressly forbids injustice, by prescribing compensation, *to secure equality*. What was the occasion, therefore, for anything more? Surely no instrument of Government, of human invention, could have secured equality by stronger guards than these. If, after all, it has failed in this particular, then the provision in regard to compensation was practically useless, and the Legislature may take all Pittsburgh, as it has in fact done, for the uses of the State at large, under the color of taxation, and without any compensation whatever.

"The expediency of these subscriptions, he says, is a question for the people. It is not so, however. The choice has not, in any case, been left with them. If they are sustainable as tax laws, conferring indefinite powers on *public* corporations—as it is claimed they may do—the assent of the people was of no importance; and if the validity of these subscriptions depends on their assent, then even a *majority* could not so change the corporate functions as to bind their dissenting and protesting fellows.

"It is not to be too hastily inferred, however, that the views thus stated have suffered no change, or are to prevail hereafter. The effect of a particular decision is not always obvious at first sight, and there is nothing in the position of a Judge to exempt him from error, or to remove him beyond the pale of humanity, by denying to him the humble privilege of confessing and repairing it. I have already had occasion to suggest, that since the first portion of these remarks was penned, the doctrine that the exercise of the taxing power was not subject to review, had been abandoned by Judge Woodward, in the case of *Schenley vs. The City of Allegheny*. I am now enabled to proclaim another convert to the more rational and conservative principle, in the person of Judge Knox himself—the last doubtful member of the Supreme Court.

"In the case of the Bill, recently filed in that Court, to enjoin the Pennsylvania Rail Road Company from the purchase of the main line of the Public Works, Judge Knox, in agreeing with his colleagues, that no part of the taxing power could be surrendered by the Legislature, is reported to have said:

" 'There are no words in the Constitution which expressly declare that the Legislature shall not relinquish the power to impose taxes upon persons or property, nor is such prohibition to be necessarily implied from any of the restrictions imposed upon legislative action; but unless the power to part with the right to tax, passed to the General Assembly by the grant of legislation, it does not exist, although not forbidden. It is difficult, if not entirely impossible, to define with precision, in what the legislative or law-making power consists, but it is very clear that it is not an absolute power to do whatever the General Assembly may determine to do.

" 'The power to impose taxes is entirely legislative in its character, and the General Assembly is possessed of this power to the fullest extent; for it was conferred by the people, without limitation and without restriction, to be used, however, as the exigencies of the Government required, and not to be bartered away, to answer present purposes, at the expense of the future. The power to impose taxes does not include the power to grant immunity from taxation, any more than the power to provide punishment for the commission of crime, implies the power to grant exemption from all punishment. To deduce the right to contract the power away, from the right to exercise it, is to claim the right to destroy, because the right to preserve is conceded.'

"Here then, while it is distinctly asserted that the power of taxation is a legislative power, passing, *to the fullest extent*, by the general grant—which, according to the Chief Justice, would have made slaves of all of us—it is admitted that the power to stipulate against its exercise in a given case, *did not pass*, and does not exist, *although it is not forbidden, either expressly or by necessity implication*. The idea, therefore, of legislative omnipotence, and the rule of the Sharpless case, compounded of the theories that it may do whatever is not *so forbidden*, and that the taxing power is so absolute and uncontrollable, that the manner of its exercise is not subject to revision, even in a case of manifest abuse, are alike distinctly and explicitly abandoned. While it is still insisted that this power was conferred without limitation or restriction—though never, in point of fact, *conferred* at all—it is, at last, unanimously confessed, that there is a qualification upon the *use*. The limitation here is, that 'it is to be used as the exigencies of the Government require, and not to be bartered away;' and the reason given is, that 'this would be to infer a right to *destroy*, because the right to *preserve* is con-

ceded.' It is not altogether clear, that *non-exercise*, although it may involve a breach of trust, is necessarily *destruction*, or that a mere *agreement* for *non-exercise* is any more than an *abuse*, because it exhausts a source of legislative supply, if it does not enact injustice by exempting one at the expense of another. The idea, however, that this would be destruction, is equally predicable of the right to take the whole property of the citizen, *uno flatu*, by way of mortgage, under the pretense of taxing him, for the purpose of building rail roads. If it be bad logic, as it is, to infer a right to *destroy*, from the existence of a right to *preserve*, what becomes of the power claimed here—and that by implication merely—to *destroy* the property of the citizen—where the very object of Government is declared to be its *protection*, and the power is, therefore, implied only for the purpose of *preserving it*! Is the existence of the taxing power more important than that of *property* itself? Surely no further argument is necessary. Judge Knox himself has demolished the case we are reviewing, at a blow.

"I take occasion, therefore, to congratulate the people and the profession, on this early return to sound principles, and rational rules of interpretation. The departure has been—thank Heaven—a brief one. It has inspired great alarm, and has been productive of much mischief. I never doubted that it would be brief, because I felt assured that the new doctrine would so hamper and embarrass the Judges, at every turn, and lead to such unexpected and startling results, as would inevitably drive them back to that 'one impregnable position' referred to by Chief Justice Black, in his letter to the Commissioners of Somerset county. They are now there, as I humbly believe, and I take my leave of them accordingly. In so doing, may I not be allowed to say to the victims of this iron rule:

"*'Redit Astræa redux; redeant jam Saturnia regna?'* "

It will thus be seen that he devotes over three-fourths of this long Review to the opinion of Chief Justice Black.¹ This was the gage of battle—a struggle that was to extend through many years and take many forms. This Review, however, made Thomas Williams the leader of that part of the people who were determined to sooner or later curb this vast power of the Legislature and the courts over municipal affairs, and made him the voice of the County of Allegheny and its municipalities in resistance to what they believed to be the unjust course of

¹ 9 Harris, 158-176.

Philadelphia interests against them through legislative channels. The struggle was a complex one and the considerable period of quiet in Pittsburgh which followed was only the lull before the storm or the preparation for battle.

One significant incident, late in the last year of this period, may speak for itself. On the 21st of November, 1854, there appeared in the *Pittsburgh Gazette* a letter urging the qualifications of Mr. Williams for the coming vacancy in the United States Senate, and enough had been said regarding it to show that there were not a few who desired to press his claims for the place. Early in the following January the *Post* had an article on the subject that brought out a still stronger plea for Mr. Williams in the *Gazette* on January 12th that was given first place in the editorial section.

"The *Post* in the article first above alluded to, holds the following language," says the *Gazette* writer: " 'Whether he be a Democrat, Whig, or whatsoever else—we hope our new United States Senator will at least be a *man*,—a man of capacity, of virtue, and last but not least of a stiff back-bone.' The language is expressive, and meets our views precisely, and with this preface we urge again the selection of *Thomas Williams* to fill the office.

"To question his ability in this part of the State would be rather absurd. His efforts in favor of a protective tariff were worthy to be ever remembered, and I, like many others who look back to the times of '40 and '44, must acknowledge that in the political strife of those days he was undoubtedly the master mind, the acknowledged leader in the Western part of the State. Some of his articles on the Tariff question are now, and will long be, regarded as among the best productions to which that subject gave birth. His mind was not of a mediocre stamp, on the contrary, judging from the best of evidence,—its fruits—few have been gifted with such large and comprehensive views, combined with such acute and logical analysis of the subject. The question left his hands stript of every mystery, and its bearings and effects clearly and concisely held forth to the public mind. Of his readiness and effectiveness as a stump speaker we need not speak. Many will recall his rich and racy style with pleasure; and even thus his opponents will remember his political campaign of some ten years ago—then there was a fine field,

fair play, no secret organizations, and the victory was to the brave and true.

"He was considered the best man to represent the interests of Allegheny county in the State Senate, and was nominated and elected without any great difficulty—though some good Democrats bitterly opposed him. His career in the Senate, those who were then members will look back to as furnishing a good example of the manner in which a representative should serve his constituents. Punctual, ever attentive, all the minor duties which devolved upon him were most faithfully performed; but it was in a wider and more useful field that he sought and won distinction. The finances of the Commonwealth were then in such a state that grave and serious doubts were entertained whether her credit could long be sustained. The time was a trying one—Senators of talent, foresight and great financial abilities were wanted, and some were found, and foremost among them and most conspicuous was the Senator from Allegheny county. His eloquence, his bold, uncompromising strength of principle, his unquestioned integrity and his unceasing labor contributed much to sustain the credit of the State. The people of this section were not the only witnesses to his efforts. The Eastern as well as the Western part of the State profited by his labors and admitted his great worth.

"As a Lawyer he has won a wide-spread fame. His presence in Philadelphia Courts when great interests are at stake is no rare occurrence. His equal they may find; his superior they have not. The fact is of record that his argument on one of the most important constitutional questions ever broached in Pennsylvania, was pronounced by the Supreme Court the most masterly production on that subject—a subject which brought out the full strength of the renowned Philadelphia Bar. We allude to the question of the constitutionality of the municipal subscriptions to railroads, and most truly have his predictions which are found in that argument been verified."

Some very interesting questions arose in the senatorial campaign in the Legislature, even to the suggestion in the *Harrisburg Union* that the Legislature could meet after or before adjournment and elect—a point against which Mr. Williams felt constrained to make public protest,—but it is sufficient for purposes here to state that political forces behind the Legislature were by no means ready to consider as senatorial material the author of the "Review of the Three Judges of the

Supreme Court;" as a result William Bigler was sent to Washington and the incident proved to be only an episode—although a significant one—in Mr. Williams' career.¹

¹ It was a short time after this that Hon. C. R. Buckalew, on reading two of Mr. Williams' papers, wrote Hon. George Darsie that he considered Williams "as a lawyer, logician and scholar, one of the foremost men of the State." Letter of May 22, 1855, among the Williams papers.

CHAPTER XIII

AROUSED BY THE REPEAL OF THE MISSOURI COMPROMISE, HE BECOMES A FOUNDER OF THE REPUBLICAN PARTY AND A NATIONAL COMMITTEEMAN IN '56

HE WRITES THE CALL FOR THE CHICAGO CONVENTION WHICH NOMINATED LINCOLN

HIS WAR AGAINST MUNICIPAL SUBSCRIPTION TO RAILWAYS PRODUCES AN AMENDMENT TO THE CONSTITUTION

1855

Meanwhile a far greater tempest was brewing than that over municipal subscription to railroads, ominous even as were the rumblings of that storm. Its thunderings and lightning flashes were the signs for which Thomas Williams had "waited with the faith and patience of the aged Simeon." And, said he, in the same place where these quoted words were used,—“It came at last in the repeal of the Missouri Compromise, and culminated in the mortal struggle, which, commencing on the plains of Kansas, was transferred to the Federal Capitol, and there shook the Representative Hall of the people with treason, and dyed the floor of the Senate Chamber with blood. The hour had then struck. The field of politics was flooded with a new light from the blazing dwelling of the inhabitant of the prairies. The veil had dropped from the faces of the combatants. The two great antagonistic interests which had been so long wrestling for empire under arbitrary names, had now come face to face, with visors up, in mortal embrace. The problem of American politics was now solved. The issue was at last

directly made, and it brought along with it the inducement to renewed exertion, in the assurance which it furnished of a great deliverance. The time had now come to strike once more for freedom."¹

It seems strange to one familiar with Pennsylvania political conditions of to-day that the State could have been so uncertain a half-century ago that a Presidential candidate could say:² "As goes Cumberland county, so goes Pennsylvania; and as Pennsylvania goes, so goes the Union;" but it was said, and it was such conditions that made the vigorous new anti-slavery party that was springing up in various northern States desire to have its first meetings for national organization in the Keystone State. Thomas Williams took great interest in the proposition and would have had an active part in promoting the preliminary national meeting of the Republicans, set for Washington's Birthday in 1856 at Pittsburgh, had he not been arguing his first case in the Supreme Court of the United States at the national capitol on that very day.³ The convention, which met in Lafayette Hall, had many features of interest, but the most significant and picturesque were the speeches made while waiting for committees. Horace Greeley was most enthusiastically greeted. The great editor of the *New York Tribune* was evidently a favorite with the three hundred or more delegates in attendance. He said he had been in Washington for some time; "our friends there counselled extreme caution in our movements. I

¹ Mr. Williams on "The Negro in American Politics," 1860, p. 2. Williams papers.

² James Buchanan, quoted by ex-Governor Ritner in the first regular national Republican Convention. *The North American and United States Gazette*, Philadelphia, June 18, 1856.

³ The case was that of Joseph Wilkins, tenant, and Francis G. Bailey, Joseph Peacock and Samuel Bailey, executors of Michael Allen, deceased, plaintiffs in error, vs. David Allen, Martha Allen, Catherine Allen and Isabella Allen. 18 Howard's U. S. S. C. Reports, 385. This had come up from the western circuit of Pennsylvania, United States Circuit Court. Mr. Williams represented the executors and Andrew W. Loomis and Edwin M. Stanton represented the heirs. Williams had been admitted to the bar of the Supreme Court of the United States on the 11th, on motion of Mr. Loomis, and spoke in this case on the 21st and 22d. The case illustrates a large element of Mr. Williams' practice, counsel for estates, the Schenley estate being one of the best known. His letters to his wife at this time give some very interesting accounts of his experience in his first case, and of dining with Justices Wayne, Grier and Curtis, but as he says these are for her eyes alone, they may so remain. He was so well known as an orator that he was sure to attract an unusual audience whenever it was known he was to speak. His argument occupied two hours the first day and an hour and a half the second. Letter of February 22, 1856, to his wife.



1771-1772



HORACE GREELEY

Halftone of a contemporary photograph by Brady
negative in possession of L. C. Handy,
Washington, D. C.

am myself a cautious man, [laughter] but at the same time I think we are bound to act in such a manner as to show the South that although we are the earnest opponents of slavery, we are not governed by hostility to the South." It was, he said, "for the interest of Missouri that Kansas should be a free State, and he believed an honest majority of the people were in favor of freedom. His friends in Washington wished him to counsel extreme caution. The Federal forces are in the hands of our implacable enemies. The Secretary of War, Mr. Jefferson Davis, whatever good qualities he might possess, was no friend to our cause. The commander of the Federal forces was no friend either. Let us, therefore, be cautious, and keep within bounds."¹ Mr. Giddings of Ohio rose and replied that "Washington was the last place to look for advice." He then told a story of two farmers, Joseph and John, who piously began a settlement in the West. Joseph prayed that the Lord carry it on "thus," whereupon John prayed: "O Lord, we have begun a good work; carry it on as you think best, and don't mind what Joe says." Midst great laughter Mr. Giddings introduced Rev. Mr. Lovejoy of Illinois, "not Joe, but John." After a most inflammatory speech Lovejoy closed by advising "every man to supply himself with Sharp's rifles, and said, let there be war to the knife."² Others denounced the American or Know Nothing party, then in session at Philadelphia, and denounced the politicians of Washington and Philadelphia.³ Southern members urged care and the restoration of the Missouri Compromise, and a telegram was read from Philadelphia that "the American Party are now thoroughly united to raise the Republican banner. No further extension of slavery. The Americans are with you." The committee on organization proposed a national executive committee of one from each State to arrange for a regular national convention in June, at Harrisburg, which was ordered, except that Philadelphia was chosen instead of the capital. Mr. Williams was made the Pennsylvania member of the

¹ Report in the *North American and United States Gazette* of February 23, 1856.

² Ibid.

³ Called so because they were a secret order, and so invariably answered inquiries by saying: "I know nothing."

committee. A day or so later the American Convention was split by a large bolting element which sympathized with the Republicans, and ex-Governor W. F. Johnston of Pennsylvania figured largely with the bolters. The Americans nominated Fillmore and the bolters adjourned to meet in New York about the time the Republicans were to meet in Philadelphia in June.

A State Republican Convention was called to meet in Philadelphia the day before the national convention. It met at National Hall, Market street above Twelfth, and while the committees were at work Dr. William Elder made a stirring speech, in which he said: "The vote of Pennsylvania for the Presidency has never been lost."¹ Hon. John Allison of Beaver was made president of the convention and it was evident that wise counsels would prevail. An effort was made to instruct the delegates-at-large to the national convention for McLean of Ohio, or Frémont of California, or both, but it failed. The delegates-at-large chosen were Hon. David Wilmot of Bradford, Thomas Williams of Allegheny, Hon. John Dick, Hon. John Allison, James P. Veree and Hon. H. D. Maxwell. This was on the 16th, and the national convention met on the following day on Locust street above Eighth at Musical Fund Hall. The Northern American Convention was in session in New York and ex-Governor Johnston was very influential in it, apparently determined to lead it to co-operate with the convention in Musical Fund Hall. Early in the morning the Pennsylvania delegates, led by Neville B. Craig of Pittsburgh, had an informal meeting at which an endeavor was made to "boom" McLean of Ohio, and, indeed, by half-past ten o'clock Craig announced that all were for McLean except the Fourteenth and Twenty-fourth Districts. Mr. Greeley, Mr. Giddings and others were present at this caucus as visitors.

The national convention was called to order at a little before noon of the 17th by Hon. E. D. Morgan of New York, and Rev. Albert Barnes of the First Presbyterian Church of Philadelphia opened the session with prayer.

¹ *North American and United States Gazette*, 17th of June, 1856. The convention met on the 16th.





MUSEUM OF THE HISTORY OF THE CITY

Local street, near 18th St. when the first National Republican Convention was held
 Building of a prominent residence

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Many speeches were made. Colonel Henry S. Lane of Indiana was chosen president of the convention and made a rousing speech. Lovejoy made a more temperate, but none the less forceful one than at Pittsburgh. Probably the most impressive, however, at the first session was that of Henry D. Wilson. On the second day the States were called upon to name each its member of the national Republican executive committee for the next four years, and the Pennsylvania delegation presented Thomas Williams. The platform was then read by Mr. Wilmot, who was chairman of that committee, and except for an attempted change in a couple of words, made by Thaddeus Stevens, who was ever watchful for anti-Masonic interests, was unanimously adopted. An effort was also made to start general speechmaking, but Charles Francis Adams of Massachusetts urged the business in hand at once, and Patterson of New York nominated Seward. An informal ballot was then ordered and letters of withdrawal read from Judge McLean and Gov. Salmon P. Chase. At this Stevens warned them that he saw how things were going—and secured an adjournment—and, apparently, a withdrawal of the McLean letter. At five o'clock an effort to negotiate with the Northern Americans at New York was voted down, and on an informal ballot Frémont received 359 and McLean 196, of which latter 71 came from Pennsylvania—10 only going for Frémont. On a formal ballot 529 went for Frémont, and of the 37 which went for McLean 23 were from Pennsylvania, which cast 58 for Frémont and 1 for Seward. This was made possible by a Pennsylvania caucus before the session and the work of a committee of conference—composed of Stevens, Purviance, Wilmot, Williams and Gibbons—who secured the agreement that although Pennsylvania should stand for McLean, she would support Frémont if he were the nominee. It is interesting to see the same old line of cleavage, represented by Stevens on one side and Williams and Wilmot on the other. It was no easy problem that Pennsylvania presented the national executive committee. General Webb told them that as went Pennsylvania, so would go the country.

When the convention met the next morning they were greeted by a great banner over the stand—"For President, John C. Frémont," and forthwith Mr. Wilmarth of New Jersey offered their favorite son for Vice-President, namely, William L. Dayton. Wilmot, "whose name is a power in Pennsylvania," was nominated, and Allison of Beaver nominated "a prince of good fellows and an Old Line Whig Abraham Lincoln of Illinois." Archer of Illinois vouched for Lincoln, too, as "a high-minded Old Line Whig," whereupon Judge Spaulding of Ohio asked—"Can he fight?" Archer jumped up and down in enthusiasm, shouting—"Yes, he can fight; he's from old Kentucky"—amidst the greatest laughter and applause. Judge Palmer also spoke for Lincoln, but Dayton's name was again brought out, whereat a Massachusetts man read a telegram: "Great rejoicings—Give us a good committee—A good Vice-President—Clear the track." Thereupon an informal vote was ordered, and among fifteen names Dayton received 259, Lincoln 110, with smaller numbers to various others, Wilmot getting 43.¹ The formal ballot gave 529 to Dayton, 20 to Lincoln and a few scattering votes to others. Of these Dayton votes Pennsylvania gave 77 for Dayton and 2 for Lincoln, and refused to follow the movement to make it unanimous. Then succeeded a period of speechmaking, in which Wilmot and Williams spoke for Pennsylvania. The former showed in his speech the strain and apprehension caused by the disagreements in his State. "Why, in the name of God and of Justice," he exclaimed, "can we not carry Pennsylvania?" Williams said that "the candidate was nothing—the principles were everything. He knew the people of his section, and knew that the platform alone of his party, could triumph there, without thinking of the candidate. He appealed to Philadelphia to rally for the ticket. The Minute Men of Boston appealed to them, and shall they not have a response, as in the days of the revolution? He expressed himself certain of the cause in Pennsylvania. He spoke very eloquently, and was enthusiastically applauded."² Before

¹ Ex-Governor W. F. Johnston got 2 votes.

² The *North American and United States Gazette*, June 20, 1856. The report in the *New York Tribune* is quite different and not so good.





DAVID W. MOORE

Halftone of a print in the Congressional Library after a lithograph
by M. H. Traubel

WASH STATE
UNIVERSITY

the convention closed Mr. Wilmot reported that no conclusion had been reached by the conference with the convention in New York.

On the 20th the Americans, or Know Nothings, in session at New York, by a council, changed their nominee for President to agree with the Republicans, and made it Frémont and Johnston (W. F.), instead of Banks and Johnston. In a few days thereafter Mr. Williams, finding the resentment of the Know Nothings of western Pennsylvania against the Republican refusal to meet them half way so very great, wrote Mr. Greeley a letter of inquiry as to possibilities of compromise on the Vice-Presidency, and also enclosed a letter to Chairman Morgan of his own committee. Mr. Greeley's letter is as follows:

"New York"
"July 7, '56"

"My Dear Sir:

"I have been away at Washington, which must account for my neglect to respond sooner. I have transmitted your enclosed letter to Mr. Morgan.

"I think I understand the case of ex-Gov. Johnston, and I feel sure there will be no surrender of Mr. Dayton. I *know* there will be none with *his* consent. Please look at this morning's Tribune on that point.¹ It speaks by authority. We must be patient and hopeful. The current is with us, and we need only push forward our own organization, repelling neither Natives nor Adopted Citizens, but inviting all to stand with us on the Free State, Free Territory platform. Every hour will render it more obvious that the choice is clearly between Frémont and Dayton on one side and 'Buck & Breck' on the other. And this will gradually melt away the Fillmore organization like a snow-bank in May.

"Yours

"HORACE GREELEY"

"Thomas Williams, Esq."

"Pittsburgh,"

"Pa."

The proposition in Pennsylvania became more serious as the summer passed. With Senator Buchanan, one of

¹ The *Tribune* paragraph told those who proposed going to see Mr. Dayton to save their carfare.

² Hitherto unpublished letter, among the Williams papers.

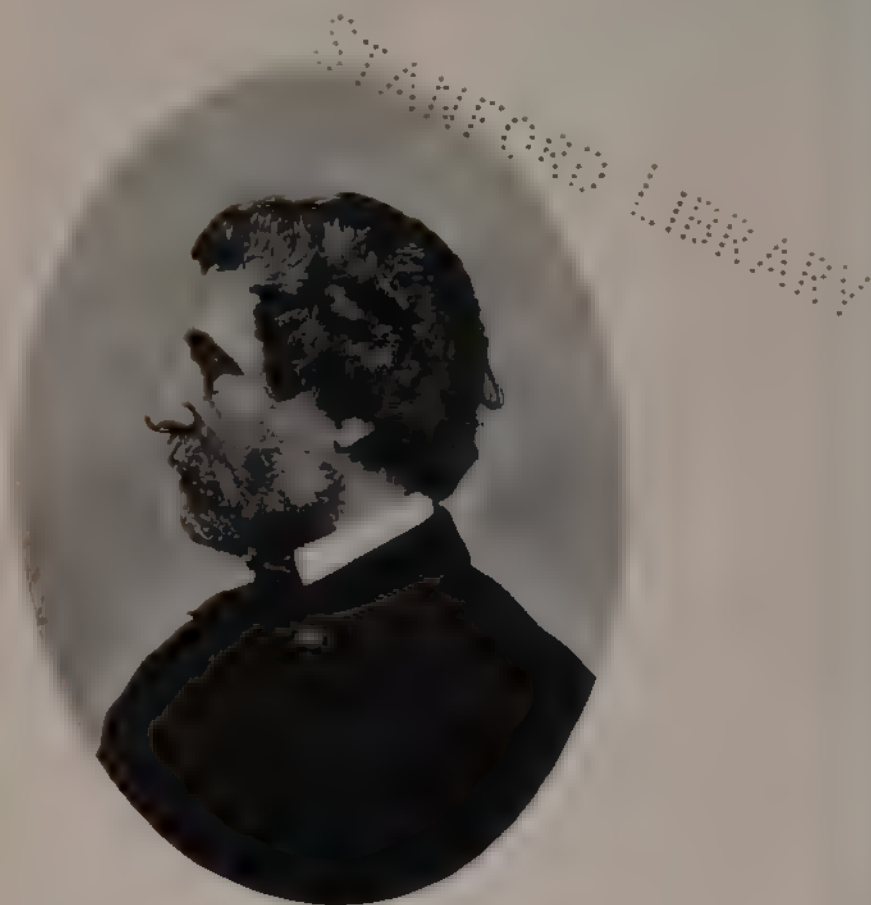
her own distinguished sons, heading the Democratic ticket, and the Fillmore Know Nothings dividing the opposition forces, even the Union Frémont forces could not make headway. Had all the opposition been united the Pennsylvanian would have had no easy victory. The October State election showed the State lost, and the November national one sealed the verdict, although Mr. Williams' own county went nearly 3 to 5 for Frémont. It proved true again that as Cumberland County went so went Pennsylvania, and as Pennsylvania went so went the Union, although Cumberland also showed that it was victory by no great margin. But, while Frémont lost, the new Republican party made a splendid showing—such that the national executive committee had no trouble in convincing its supporters that a great step had been taken toward victory another time. Republican organization was renewed all over the land and measures taken to plant for a reaping in 1860. Events, too, were making new recruits to the vigorous young champion of free territory. "We failed, it is true, in the first of our struggles," said Mr. Williams in reference to this campaign, "because we were a raw militia, without organization, without discipline, without the knowledge of our strength, and under the influence of an unmanly terror, inspired amongst the timid by the bloody menaces of our foes. It was such a failure, however, as taught them to respect our strength and courage, and taught us confidence in our ability to achieve our deliverance whenever we chose to will it."¹

He had scarcely passed through this campaign and reached a period of less engrossing excitements, when the municipal subscription question took on new and startling manifestations. His work in 1853, and the developments in '54 and '55, crystallized a sentiment that demanded that there should be no more municipal subscription to railroads; that if the Constitution, with all its provisions for the protection of private and public rights, could be so interpreted by the Legislature as to permit it, and by the Supreme Court as to enforce it when permitted, there should be a definite amendment to that

¹ Address on "The Negro in America Politics," in 1860, p. 2. Williams papers.



JOHN W. BROWN
BORN 1815 DIED 1861
RESIDED IN NEW YORK



JOHN C. FREMONT

Half-tone of an early photograph by Brady, negative in possession of
L. C. Handy, Washington, D. C.

WILLIAMSON

instrument that should make it forever impossible again. So at the January session of 1859 a joint resolution presenting four amendments was adopted, and the chief of those was a new article, to be known as Article XI, on Public Debt, the seventh and last section of which said—in unmistakable brevity: “The legislature shall not authorize any county, city, borough, township, or incorporated district, by virtue of a vote of its citizens, or otherwise, to become a stockholder in any company, association, or corporation; or to obtain money for, or loan its credit to, any corporation, association, institution, or party.” It was agreed to at the January session of 1857 also and a law passed in May providing for submission to the people in October, with no manner of doubt that it would be accepted by them. If there was any doubt anywhere the events that followed in June at Pittsburgh tended to remove them for this amendment movement was only a part of the war on municipal subscription—namely, war on future subscription. A large number of people in Allegheny County, at least, headed by Mr. Williams, proposed equally definite war on past subscriptions, on the ground that they were illegal and fraudulently secured.

Before entering upon this conflict, in order to preserve the historical temper, may it not be well to note, since these events are very near to the present and deeply enlisted, on both sides, the feelings of many still living, that it is no new thing in the world for people of the highest character and intelligence to be brought into irrepressible conflict over questions in which each side believes itself in the right, from its own point of view? Nor is it a less ancient experience of mankind that such people have often differed, even to the extent of decisive conflict, as to what, in any given matter, was either right or wise, or both. To some, indeed, even a decisive conflict does not decide the questions of right or wisdom, or both, if they be synonymous; but only determines which shall prevail; while to others—after the conflict—“whatever is, is right”—the one which succeeds being “revolution,” which, had it failed, would be “rebellion.” It may be noted, too, that there are two classes of minds,

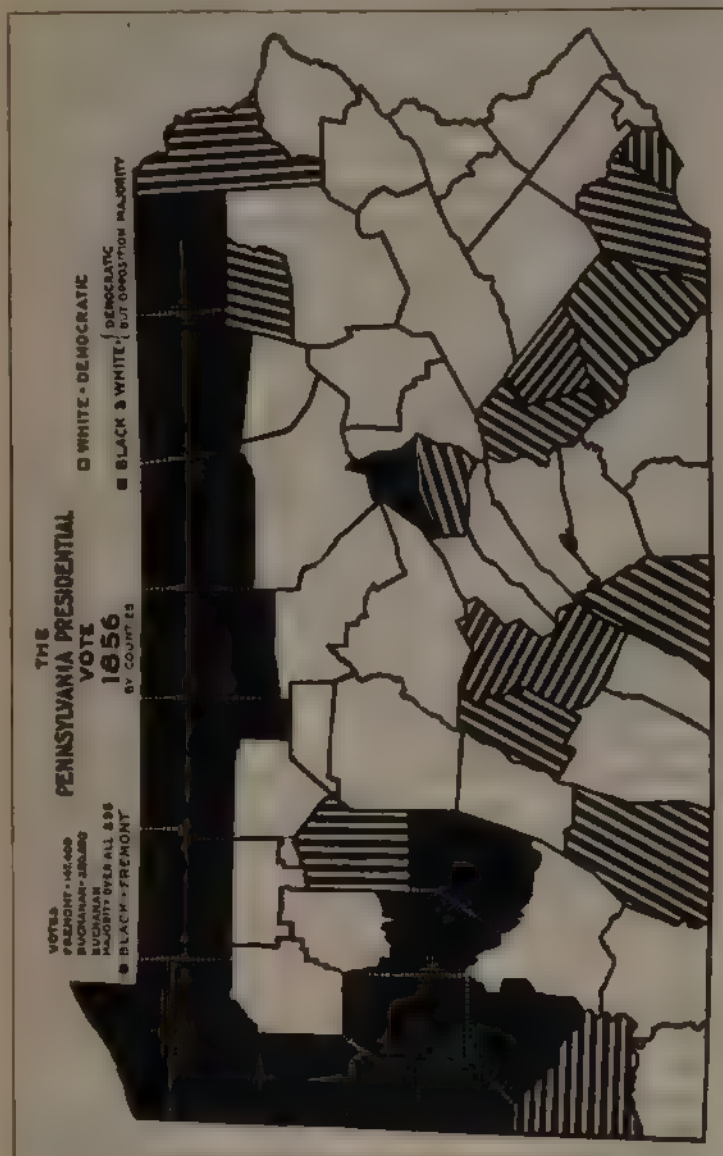
one of which, often truly constructive in character, conceives that in great crises the ordinary machinery of prescribed procedure breaks down, and that the end justifies straining many a point on the way; while the other class, often truly constructive in character also, but from another viewpoint, resists that method as an infringement upon both right and wisdom. It would simplify this particular question very much to merely admit that the dominant elements in Pennsylvania felt that the construction of an adequate system of transportation, internally and with the West, was the inevitable destiny of the State and the cost must be paid—a mere description of a Bismarckian situation; and some fought what they believed to be wrong in the situation. History is the story of the movement of spiritual, moral, intellectual and mechanical forces, co-operating or conflicting,—it is the story; and many a reader of it prefers that the matter of judgment upon it be left as his own function.¹

On June 3d (1857) the three commissioners of Allegheny County announced to the public that interest on certain railway bonds of the county required a levy of taxes for their payment, because the railroad had failed to meet its obligations, and proceeded to give a long, detailed account of the whole progress of municipal subscription to justify their proposed action.² They said it began with the supplementary act of March 27, 1848, to the incorporation of the Pennsylvania Railroad Company, which permitted county bonds to be taken in subscription to its stock;³ that on May 31st following a delegate convention of the county voted 50 to 39 in favor of subscription; that on June 4th the commissioners subscribed for \$1,000,000 in stock, according to the act of March 27th, and that the subscription was

¹ It is a curious coincidence, and an illuminating one, that within a year after the above paragraph was written, and while it was still in press (May, 1905), a Pittsburghan ex-Governor of Pennsylvania should publicly suggest, if not urge, a division of the State at the Susquehanna. This event occurred too late to insert the note in its proper place on p. 224.

² The Pittsburgh *Daily Commercial Journal* of June 3, 1857. It was probably published in all the papers.

³ This act followed earlier successes of the organizers of the Pennsylvania Railroad, in 1846, in getting Philadelphia to subscribe great amounts, and it may be noted that Horace Binney gave an opinion vigorously against such a course by a municipal corporation. Indeed, he secured the odium of the organizers in the east as Williams did in the west. "Life of Horace Binney," by Charles Chauncey Binney, 1903, p. 247.



Prepared by the author from official returns



ARTHUR J. JAMES

accepted on the 27th of June. Furthermore, that by act of April 15, 1852, the county was authorized to subscribe, with certain limitations, to the Allegheny Valley Railroad Company; that in October the Grand Jury recommended a subscription for 20,000 shares, and that in November, or thereabouts, a petition with 3,988 signatures, whose names they give in many columns that require all the styles of type in the *Journal* office, apparently, was presented that certainly has some well-known personages on the list, adding its request to that of the Grand Jury; that only some 309 persons signed a protest; that on December 31st 15,000 shares were subscribed for, and bonds given in payment, on which the company was to pay the interest, and that on the following 24th of January (1853) 68 citizens filed a protest. Still further, that in accordance with acts of April 18, 1843, and April 18, 1853, empowering the county, and in accordance with general "strong expressions" of the previously mentioned convention regarding the value of railways, the commissioners subscribed to stock in the Pittsburgh and Connellsville Railroad to the amount of 15,000 shares, which was accepted with the limitations on June 8, 1853. Again, that by an act of February 24th, immediately preceding this last, the county was authorized to subscribe to stock of the Pittsburgh and Steubenville Railroad, with certain limitations, and that in June the Grand Jury added its recommendations, and another big citizens' petition favorable to it was filed; that on July 15, 1853, and June 18, 1854, a total of 10,000 shares were subscribed to with the prescribed limitations, and that the company had failed to pay any interest since January 15, 1856, compelling the county to support their bonds itself. Again, that by act of April 7, 1853, a subscription to the Cleveland and Pittsburgh Railroad was authorized, with limitations; that the Grand Jury recommended, on June 2d, that \$150,000 worth be taken whenever citizens shall have subscribed \$50,000 worth; that on July 13th 3,000 shares were taken, and that this company had kept its obligations ever since. Still more, that by act of February 7, 1853, a subscription to the Chartiers Valley Railroad was authorized, with usual limitations,

and that the Grand Jury and 716 citizens requested that 3,000 shares be taken, which was accordingly done on August 8th following, and the company accepted it on March 14, 1854; also that this road now notified the county that they could not in future meet their obligations. The commissioners thought the four-mill increase in taxes not excessive and were advised by Messrs. Loomis and Stanton, counsel, that they were legally liable for the interest on the bonds given to the defaulting companies. They also said such railroads as had been finished were sure to be a benefit, and that the county could not "repudiate" their legal debts.

Five days later a letter from "A Tax-Payer" appeared as an editorial in the *Evening Chronicle* (June 8th). Internal evidence shows it to be Mr. Williams' work. Among other things he says: "I think I abhor repudiation, as it is generally understood, as much as any man, and it was precisely because I did abhor the very appearance of it, that I resisted at the outset, and have continued to resist throughout a headlong career of folly, profligacy and ruin, which was morally certain to end precisely in this way, and so *necessitated* by the very extravagance and insanity of the thing itself." Speaking of those "moralists," as he calls them, who "preach" against "repudiation" he says:

"He preaches, it is true, but only for the benefit of the bondholders. He sees no dishonesty in *making* these debts. He quotes the late Chief Justice for another purpose, but he does not tell us that even he was obliged to admit, in the same opinion, that the whole legislation which authorized them, was '*impolitic, dangerous and immoral.*' He overlooks the fact that every single consequence of repudiation which he apprehends and deprecates, has already followed fast upon the heels of this iniquitous legislation. Dishonesty, disregard of moral and social obligation—destruction of public credit, and distrust between man and man, have come down upon us already like an avenging Nemesis—and the gulf of ruin is just yawning upon us in advance * * *.

"But what is repudiation? Let us not be misled by mere names. I understand it to be the refusal by any man or community to pay a debt which he or it has honestly assumed, and in that view, it cannot, of course, be too strongly condemned. If



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a third person should, however, venture to take up goods, on some trading enterprise, upon the credit of our facile indorsers,¹ without their consent, and execute a mortgage upon their property for the payment, what would they do? Would they pay, or would they think it any great harm to refuse? They would refuse, of course, and resent the imputation which the term repudiation is understood to convey, as altogether unjust and improper."

The letter is a long and strong one; he says the Legislature was this "third party;" that he warned the bond-buyers that he would fight it before they took the bonds, and "the reaction is even now at hand."

And it was. "Mr. Williams," said a paper in Pittsburgh, editorially, many years later, "than whom a better or purer man never lived, was at the head of that movement, and there was no abler lawyer at the bar in his day. Nothing was further from his mind than the repudiation of an honest debt. But he was deeply imbued with the fundamental principles of civil government and the old common law of municipal corporations, and never could admit the absurdity of a municipal corporation lending its credit and issuing its bonds to Railroad Companies or to Commissioners, or other outside parties."²

Two days later, upon the 10th of June, "A Tax-Payers' Convention" of the county met, and was so fully attended that it was adjourned to Lafayette Hall. The main features of this meeting of delegates from all election districts were a proposition to investigate conditions and report, consideration of a resolution asking that the Pennsylvania Railroad be enjoined from buying the main line of Public Works, and the set speech of Mr. Williams, which latter was indeed the main feature.³

¹ Certain citizens who had recently indorsed the commissioners' manifesto.

² Clipping among the Williams papers. The editorial appeared some time in 1876, but unfortunately the paper's name was not noted on it.

³ *The Dispatch* of June 11th, in an editorial against the convention, said: "Mr. W., however, is one of the score who have consistently, publicly, and on all occasions opposed municipal subscription to railroads, and has a right to complain of taxes, to pay debts which he had no hand, directly or by his silence, in incurring. But, because his and our taxes are doubled, the country has *not* gone entirely to the Styx, as he would have us believe—and should that gentleman be seen, this morning, parading before his block of ware-houses, on Market street, with a loaded musket to keep off the tax-collector, a revolution will not be the necessary consequence"—a witty rejoinder, by the way, that was not quite so prophetic as it was witty, at least so far as Pittsburgh was concerned, for there did happen something of a revolution.

The convention adjourned and met again on the 24th, and Mr. Williams was made chairman of an investigating, or ways and means, committee, which soon decided that a campaign should be fought out to secure the election of county commissioners who would fight the whole matter to a finish. One feature of the plan was the establishment of a new journal, as an organ, since the press of the city were not with them, as a letter from Judge James Thompson in reply to inquiries about the character of the editor of the *Erie City Dispatch*, as a possible head of the new journal, shows.¹ Just when the new organ was established is not known, but it was launched, and Mr. Williams himself became the most forceful power in *The Weekly True Press*, as it was named.

Late in September the committee's "Address" to the taxpayers of the county was published. The following copy, covering the first page and a half of the next in the *Evening Chronicle* of September 25th (1857), will show the vigor and determination of the fight proposed:

AN ADDRESS OF THE COMMITTEE APPOINTED BY THE TAX-PAYERS' CONVENTION, WHICH ASSEMBLED IN PITTSBURGH,
THE 10TH AND 24TH OF JUNE, 1857.

TO THE TAX-PAYERS OF ALLEGHENY COUNTY:

The undersigned were appointed by a Convention of the Taxpayers of Allegheny County, to inquire into the condition of your financial affairs, to devise measures for your relief, and to address you, if necessary. They have not been idle or indifferent. They have felt constrained, however, to await the progress of events, and they think that the crisis has now arrived when it is their duty to keep silence no longer.

You know, generally, that you are now called upon to pay an *extraordinary* tax of *four* or *five* mills for Railroad purposes. The Commissioners have not condescended to tell you how, or why, or by what authority this tax was imposed. You sent your delegates to inquire and they were insulted, yourselves denounced as a mob, and the doors forcibly closed against you. It was assumed to be your business to pay without inquiry. The Press generally thought so, and condemned your objects. The men who agreed with them in your Convention either objected to inquiry, or insisted that you must pay without regard to results.

¹ The letter, among the Williams papers, is dated "Erie, Aug. 5, 1857."

Your Convention did, however, proceed to collect such information as was important to you, and embodied it in the form of a Report. It contained much that was new and startling, and of the deepest interest to you. You were not, however, allowed the privilege of seeing it. The Press of both parties, favoring the imposition, concurred in withholding it from you. It becomes necessary, therefore, to recapitulate the general facts, that you may see the full extent of the evil, be made acquainted with your rights, and be prepared to apply the remedy.

The tax now levied is intended for the benefit of the Allegheny Valley, Steubenville and Chartiers Valley Railroads. The aggregate subscription to these Roads is *two and a half millions* of dollars. It is all dead loss. It was obviously so from the beginning. No other result was at all probable. The interest on this debt is \$150,000 per annum. The County pays on \$1,400,000; the city of Pittsburgh on the whole.

The mischief does not, however, end here. There is another *million and a quarter* to the Connellsville Road; \$150,000 to the Pittsburgh and Cleveland; \$600,000 to the Ohio and Pennsylvania; and a *million* to the Pennsylvania Central. The first named of these, at least, will be knocking at your doors within the following year. It has already been authorized by your Commissioners, without your knowledge, to sell a portion of your bonds at 68 cents on the dollar, to pay the interest on those previously disposed of! The two next are paying no dividends, and the stock is comparatively worthless, and may be considered as lost. The Pennsylvania Central, and that only, does pay dividends, and professes to make them. Whether it does, in point of fact, no man can tell. Your County Directors are not understood to be more than nominal. If they know anything about it we are none the wiser for that knowledge. It has become, however, under the encouraging auspices of the County Commissioners a great *Canal* proprietor, and a large subscriber to unfinished and worthless Railroads. Its operations are multifarious and its debt enormous. It may suspend the payment of dividends at any time. The presumption is, from its present management, as well as from the history of kindred enterprises of equal magnitude, that long before the maturity of our bonds, it will become a part of the general wreck with which our shores are now strewn.

When you come, then, to sum up the general bankruptcy account, you have a total of *five and a half millions* of Railroad debt, and that too without assets to show for it, beyond the already depreciated stock of the last-named Road, subjecting your houses and farms to a *perpetual incumbrance*, and draining

you annually of the enormous sum of \$330,000. Nor will this be only the insensible dripping of a healthful *vein* in the way of *Taxation*, for the legitimate purposes of government. These purposes must be provided for also. It will be the *rush* of an *artery* for purposes of *confiscation*, and aiming at your *lives*. You can bear the weight of honest and equal government Taxation. You cannot glut the appetite of the *vampyre*. If the bondholders are allowed to drink—you die.

The assessed value of the freehold of this county is about \$23,000,000. The county's share of this Railroad debt is \$3,300,000. This is about 14½ per cent. of the amount appraised. It takes, in effect, \$14.50 out of every \$100 of your property, by creating a perpetual mortgage to that extent. The interest on this sum is \$198,000 a year. To meet this will require a perpetual addition of not less than *nine* mills, which will *quadruple* the usual and legitimate County Tax. Our population in 1850 was about 138,000. Our Railroad debt is, therefore, about \$24 a head.

Startling as all this is, it is but a trifle, compared with the unfortunate condition of the city of Pittsburgh. The freehold of this city is valued at about *nine* millions. It has its own Railroad debt of \$1,800,000. This is just 20 per cent. on its whole valuation. It is a mortgage, therefore, of \$20 every \$100. Its interest is \$108,000 a year. To pay it, will require a tax of about *thirteen* mills, including charges and exonerations. It is to be remembered, however, that the city is, unfortunately, a part of the county. This fact seems not to have occurred to the Councils, when they were yielding to the popular argument, that if *they* would give so much, the county would contribute as much more. Add then its share of the county debt, which would be about \$1,290,000, and we have a Railroad debt for the city of \$3,090,000, constituting a mortgage of 34½ per cent., and requiring an additional tax of about 22 mills. The population of Pittsburgh, in 1850, was about 60,000. It has not increased to any great extent since that time. Its Railroad debt would be, therefore, over \$50 a head.

These are indeed startling results. They shock even our newspaper editors when they see them stated in foreign papers, and our own image thus reflected back upon ourselves. Your Committee would rather not speak of them either, if they could be safely concealed. We cannot, however, escape or evade them by turning our backs and burying our heads in the sand, like the ostrich. Our silence or ignorance has been only abused for the purpose of furthering new impositions. If a new tax is proposed for any new object it is sure to find an advocate in

the Press. You are coolly told that you can bear it all, and as coolly assured that you are taxed no higher than other people. The time for concealment is now past. The evil is upon us. The Tax-Gatherer—that bird of ill omen—is now blackening the air with his heavy flight. The plague is in our kneading troughs. It dwarfs our growth. It menaces the public peace. It shakes the security of our homes. Those who have slept heavily with their heads in the lap of the Press, and their senses drowned by its deceptive lullaby, must now wake up with a shock to the consciousness of what has been so long witnessed and wondered at, by everybody but themselves. You are not yet, however, altogether shorn of your strength. If you will but awake now, and be true to yourselves, you will heave off this unsightly and illegitimate burthen as the Israelitish champion snapped asunder the flaxen cords which had been bound about his giant limbs.

But how have all these things been done? Not, thank God, by any act of yours, or of men having your authority. The parties who sought to embark your property in the wild hazards of railroad speculations for the own purposes, were too shrewd to submit the question to you. Their process was as novel as it was ingenious. They repaired to the Legislature without your knowledge and asked of them the privilege of *compelling* you to subscribe, by authorizing a third party, on whom they could rely, and whom you could not control, to mortgage your property and tax you for the payment. The parties selected as the agents of the Legislature and the companies were Grand Jurors, County Commissioners and members of Councils. With the inducements which could be offered, where limitless issues of bonds, passing into the hands of irresponsible men, were to be the prize, no machinery would be unemployed, and they would subscribe, of course, without reference to the value of the improvement, and without caring whether the money was squandered or not. It was no less than an authority to ruin you with the means thus extorted by the Legislature from your own pockets. The consequences were precisely what might have been expected. No sooner was a power conferred than the dispensers of this legislative bounty became a general focus of attraction. Even the press seemed to acquire a new life. The Grand Jury room was invaded. The lobbies of the Council Chambers were clouded and blackened with the locust swarm. The once humble Commissioners towered into mighty potentates, whose levees were thronged by a crowd of mendicants that would have shamed the ante-chambers of an Eastern King. If a Grand Jury was obstinate, they could be tried again. There was flattery for the vain,

and tit-bits for the gourmand. If they were proof against such persuasives, there was the Legislative contrivance of getting a few obstinate men out of the way. If the Commissioners held back, there was a way too of getting at their hearts. There were men whose influence would conquer even a Commissioner, and there were means of securing them. With the Councils, there was no difficulty. They never refused a subscription to anything. No matter whether a company came before them without a charter, and with the confession that they had obtained a former subscription by false pretences; it made no difference. No matter though every condition of a subscription was violated. What was that to you? They got what they wanted, and used it as they chose. It cost Commissioners and Councilmen nothing to be generous with your estates. They did not care whether you were consenting or not. They gave audience to railroad presidents, but never to you. Voting away your money was their business exclusively. Yours was the humble privilege of footing the bill, and paying the piper while they danced.

By means like these then was it that all this enormous debt was piled up in the marvellously short space of some two or three years. It was a grand carnival while it lasted. Railroad bonds—supposed mortgages on your property—issued and paid out to irresponsible men, without any security whatever, were hawked about by hats' full, and became almost as cheap and abundant as the dust upon our streets. A loan at *forty per cent. per annum*, on a hypothecation of such securities at *fifty cents* on the dollar, was no unusual thing. No inquiry was, however, made by your Commissioners or Councils, how they were disposed of, and no heed given to the question whether the conditions on which they were issued had ever been observed. And yet there was not one case, perhaps, where those conditions were not violated under their own eyes. In the case of the Allegheny Valley Road, it was provided by law that the County Bonds should not be sold below par. The condition was openly disregarded as to this county, and all the other counties saved. In the case of the city there does not seem to have been any authority to subscribe at all. In the case of the Steubenville Road, the condition of the first city subscription was that the like sum should be honestly subscribed by individuals. They produced a regularly authenticated list of private subscribers, and got your Bonds on the assurance that they would build the Road. They were back again in a little time for as much more, and they got it, too, upon an exhibit which showed that their first private subscription was a *sham*, and then obtained another \$250,000 from the county upon the same proofs, and, as we

think, without any authority at all! In the case of the Connellsville Road, there were three conditions annexed; one that the Baltimore and Ohio Railroad Company should agree to put them on the same footing as their own Western Division; another that they should be able to show means to *connect* their road with Cumberland; and a third, that the moneys subscribed should be expended in constructing their road from Pittsburgh eastward. Not one of these conditions was observed. The Baltimore and Ohio Company refused to make any such arrangement. The Company had no means whatever to *connect* its road with Cumberland. It got the subscription notwithstanding, declined making its Road into Pittsburgh altogether, carried the money into other counties, and sunk some \$200 or \$300,000 in the defalcation of an officer! Is it surprising, then, that in view of all these monstrous abuses the whole municipal Railroad system has gone to ruin in so short a period, and "left not a rack behind?" The undertaking to build with our own unaided resources, and upon corporation credit exclusively, a system of Railroads which would have swamped the whole freehold of the County, was a guaranty that they would perish in the woods, and that the City and County would perish with them. Any other result was impossible from the beginning. Railroads do not pay, even when built with *money*. With Corporation Bonds at fifty or sixty cents on the dollar, declining in value at every successive issue, like the Continental paper, and carrying down with them the value of your freeholds, they were sure not to pay, and equally sure not to be finished. Is it not surprising, however, that anybody here should have the assurance to expect you to pay, and that, too, at the par value of the securities, a debt thus incurred—or that any one professing a regard for your welfare should be found to defend an impost levied for such a purpose? Has all respect for property or private rights died out? Is it supposed that the Courts will lend their aid to disfranchise you, and trample out the very idea of freedom? Does patriotism or public duty require you to throw away all the securities which the government owes you, and allow yourselves to be thus robbed with impunity?

The occasion of the present Tax is the failure of the Allegheny Valley, Steubenville, and Chartiers Valley Railroad Companies to pay the interest on their Bonds. This Tax is assessed, as the subscriptions were made, without consulting you, and with the apparent purpose of covering up the whole past, and shutting you out from any defence upon the Bonds. And this is perhaps a fitting consummation for such a tragedy.

The newspapers say you are bound to pay it. They deprecate inquiry, too, as well as the Commissioners. Some of them denounced your Convention, although it went no farther, and one has even gone so far as to declare openly that investigation is but a quibble. All of them favor the payment, and nearly all of them without reference to the question whether the Bonds were honestly issued and passed away or not. If you wish that question made you must all *sue*. You are not to be allowed to defend through your Commissioners. They are engaged for the other party, and their business is to make you pay if they can. All agree in assuring you that the question of your liability to pay this Tax has been settled.

If this be true then are we in a deplorable condition indeed. If we are in these bonds, and thus chained by an inexorable fate we are indeed a spectacle for Gods and men. The historian can then write the epitaph of Pittsburgh, and the enemies of freedom point the "low unmoving finger" of derision at the example which we shall furnish of a community blest by Providence beyond all others with elements of wealth, guilty of no default and yet given over—men, women and helpless children—to worse than fire and word, and swept by its own rulers with the besom of destruction. If we are liable for this debt, not made by ourselves, but imposed upon us by a tyrannical legislature, and its agents here, there is an end of our growth. The vital principle is extinguished. Decay—dilapidation—ruin are at our gates. Where the freehold is deeply mortgaged, men will neither invest nor improve. Where property is insecure, capital and enterprise will flee as from a plague. It is the experience of all lands. It is already foreshadowed here. If the Press will not see it, every freeholder does. If the Commissioners and Councils had set fire to the town they could not have inflicted a deeper injury. It would have survived the ruin and sprung up anew, as it did in 1845, without incumbrance. Individuals might have suffered, but that suffering would have been followed only by a transfer of property. These men, however, have laid on it a weight which it must carry through all time. Its unimproved property is made worthless. It may be sold for its taxes, but the incumbrance will still follow it. Our condition is that of Prometheus chained to his rock with the undying vulture preying upon his vitals. The wound is without cure, as it is without apology. It will reopen from year to year, and continue to bleed forever.

It is not true, however, that the question of our liability for all this debt is settled. A bare majority of the Supreme Court has indeed decided, without agreement between themselves, and

on principles which cannot be safely maintained or successfully defended—that the Legislature may authorize such subscriptions and the issuing of bonds in payment thereof. The policy was then a new one. The evil was not foreseen, and the pressure was strong. Two of the Judges held that they were tax laws simply, and that the taxing power was so illimitable that even the *grossest inequality* was not subject to review. They have since greatly modified their opinions on that point. The late Chief Justice Black, who gave the casting vote, thought differently as to the taxing power, but held these laws to import a mere *permission* to the corporation *to make a contract* and to tax themselves. *He* thought the purposes were properly municipal, and *they* thought otherwise. With *his* views of the taxing power, his concurring brethren would have ruled the question the other way. With *their* views of a municipal purpose, he would have paid them the same compliment. They all agreed, however, substantially in the opinion that this was not a taking of property, that the Constitution was not to be interpreted by its spirit, and that we had no rights except such as were specially and *literally* reserved in the Declaration. And this is precisely the state in which the question now is. It so happens, however, that some States of the Union had no declarations of rights at all, and that this very doctrine had been solemnly repudiated—and that too before it was uttered here—by the highest authority in this nation, as anti-American, and altogether inadmissible. Whether it shall stand as law in Pennsylvania is yet to be decided. No divided opinions at least can settle it against the citizen. It would not be decisive in an ordinary case. Every day's experience proves that even an unanimous opinion is not so. It will require more than three judges to make a constitution for us, or to deprive us of existing rights by giving to the one we have a construction which shall overthrow the securities of property. They may be respectable. We do not say they are not. It is no disparagement to them to say that they are not any better lawyers than many of their professional brethren who are united in the condemnation of that doctrine. If the doctrine is not sound, however, it cannot stand. It must eventually yield to the force of an enlightened public and professional opinion. The question is a *political* as well as a *legal* one, and belongs, to some extent to the forum of the *people*, as touching the welfare and the very existence of great communities. No time can consecrate a wrong. No number of opinions—no professional jugglery—no subtlety of argument, can persuade the people of this country that their property can be taken from them without their consent, without crime, and without com-

pensation. Their *instincts* tell them that this is wrong. They *know* that their property is their own. They know that one of the declared objects of this Government is to *secure* it. They know that this is not *taxation*, but *plunder*. They read the Constitution, and they see that it is forbidden there. They find it, they think, in the *letter*. If it is not in the letter, they know and feel that it has a *spirit* and a meaning, and they are as sure that is there, as they are sure of any truth that is taught them in God's inspired word. Nay, it is the very spirit of that word that has instructed them to defend all their natural rights, as it led their fathers across the ocean to seek their security here.

Nor does it make any difference that others may have supposed this question to be decided, and invested their moneys upon the faith of it. They knew, or ought to have known, that it was not settled. They were aware of the risk, even where they bought honestly, and there is no instance, perhaps, wherein they have not indemnified themselves by a heavy discount. Were it otherwise, however, it was their own folly, for which we cannot be expected to suffer, and no default of ours. If they had kept their money, we had been safe. We never had it. We did not want it. We protested against their dealing with these men, on the hypothesis that the bonds were ours, or the subscriptions made by our authority. They conspired substantially with our supposed agents to cheat and ruin us. It will not serve them now to say that they rested upon a decision of the Supreme Court. That is but a shallow artifice. The men who talk in this way would put the judges in the position of *indorsers*, and hold them personally to their opinions by an appeal either to their sympathies, or to one of the infirmities of our common nature as men. The appeal might be legitimate if it were addressed to their own pockets. Even pride of opinion might in that case be not unfairly invoked. The argument will not, however, answer here. If these acts were unconstitutional *then*, they are unconstitutional *now*, and not the less so because a majority of the Court may have been honestly mistaken. They could not have *authorized* these subscriptions if the Constitution forbade them. To suppose that their *error* could change that instrument, would be a heresy more monstrous—if it were possible—than the decision itself. They are sworn to *support* it. If it forbade the taking of your property for such a purpose, then it forbids it still, and the judge who said so then must say so now, if he is faithful to his trust, unless he has changed his mind as to its meaning, as it is not disputed he may honestly do. If he continues of the same mind he cannot abandon your defence to save the money of any bondholder—be he citizen or

alien—by depriving you of your rights, and stripping the widow and the orphan of their property. The interest of the bondholders can weigh nothing in such a controversy as this.

Supposing, however, it were even settled that the Philadelphia act was constitutional, it is still not true by any means that the question of your liability is settled here. There are other points involved in the present issue, which have never been passed upon.

The act, for example, which authorized the county subscription to the Allegheny Valley Road, provided that the amount should be fixed by the Grand Jury, and empowered the Commissioners to subscribe that sum, and no other, and to issue bonds therefor. It prescribed moreover, the *condition* that these bonds should not be negotiated below par. The Grand Jury indicated a million. The Commissioners subscribed \$750,000. In their hurry to close the whole matter in the face of a protest upon their own files, they issued a single bond for the whole amount, and afterwards took up that bond and issued seven hundred and fifty others. The company, disregarding the provisions of the law, disposed of these bonds at a heavy loss. The buyers knew that they were purchasing in violation of the Act of Assembly. It was a part also of the agreement that the interest on these bonds should be paid by the company until the road was finished, and this was of course known to the buyers also, if not incorporated in the bonds. The company obtained its subscriptions here, with the assurance that other counties, more deeply interested, were pledged to co-operate. The subscriptions of these counties were afterwards obtained. In some cases the bonds were secured. In others they have not been asked for, and are not it seems to be enforced. None of them, however, have been sold. While yours have been thrown upon the market at great sacrifices and in violation of the law, your supposed partners in misfortune have been favored and spared, and your Commissioners in the fullness of their munificence, have volunteered to assume the burthen, lay it upon your patient and submissive shoulders, and tax you for the relief of other counties, while the people of those counties are looking on in quiet and security, no doubt greatly edified by your docility, and equally amazed at the generosity of your agents, and the extreme disinterestedness of your press.

The Press, it is true, has pronounced against you. That you are liable, however, for the Bonds so issued and negotiated, or that you may be taxed under such extraordinary circumstances for the payment, is a question which no judicial tribunal has ever yet decided. On general principles, we think you are not,

and that the Courts must so hold. If these extraordinary powers are to be administered with any thing like the strictness which has been assigned to a charter of public liberty in the declaration of rights, there can be no difficulty in the case whatever.

How is it then in regard to the Steubenville Road? In this case there were two county subscriptions of \$250,000 each—both made under the authority of one and the same Act of Assembly. That Act authorized the Commissioners to subscribe a sum not exceeding 10,000 shares upon the recommendation of one Grand Jury. The amount recommended was all that the law authorized. The Commissioners subscribed the half of it. If they had a discretion, their power would seem to have ended there. A year or two afterwards another Board subscribed the residue. The Bonds were not to be sold below par, and the interest was to be paid by the Company. They were issued and sold at rates that were almost incredibly ruinous. The work is unfinished, and you have ceased to have any tangible interest in it at all. The Commissioners, volunteers, as in the other case—and acting substantially for the Bondholders and not for you—are endeavoring to tax you for the payment of this interest; and the newspapers tell you that you ought to pay, and that it has been solemnly decided that you must pay. It has never been so decided, and if the *wish* be not with them “the father to the thought,” it is not easy to conjecture why they should cry down all measures of defence, and insist upon submission, when ruin to their own readers must be its consequence.

The next and last of the confessed bankrupts, who are now clamoring for your purses, is the Chartiers. And here, by the very terms of the Act of Assembly itself, the interest is to be paid by the Company, and there would seem, therefore, to be no obligation on us, at all events, until the Road is finished.

But this is not all. The decision of the Supreme Court which is cited against you with as much evident gusto, and with an air of triumph, as ill-concealed as though its supporters were themselves your creditors or their attorneys—has a worm at its root which has been overlooked by those who are so snugly reposing in its shade, with their eyes turned upward, in admiration of its broad crown and its clustering leaves. The apostles of this new faith are not instructed in the great chapter of human rights. They sink the individuality of the man in the idea of the government, which is made by him and for him, and for no other purpose. The inviolability of property is with them a pure myth, as standing in a position of antagonism to the popular idea of a majority rule. They are not aware that

this decision rests upon the hypothesis that these laws involve an exercise of the taxing power, and are to be defended only as Tax or Revenue Laws. If this be so, then, by the express terms of the Constitution, they could only originate in the House of Representatives. It so happens, however, that many, if not the larger portion of them, originated in the Senate, and, in that case, they must, upon the tax hypothesis, and upon the authority of the very case relied on, be necessarily invalid. And this, we think, is a dilemma from which no legal ingenuity can save them.

Failing all these objections, however, which have never been passed upon by our Courts, there is a refuge still left in the fact that there is no special act of Assembly to authorize these impositions. The existence of a public debt, incurred by your Commissioners for purposes mainly extra-territorial, does not, by any means, involve the right to seize upon your property for its payment. The county and cities are no commercial partnerships, and the commissioners and councils are not the masters of your property. They cannot levy a tax, we think, for purposes of this kind, without a special authority, because they are not strictly county or city purposes. They claim them to be such, however, and it is on that pretext that they have now attacked you. If you should defeat the present attempt on this ground only—and there is a limit to taxation at all events, for county purposes—you will then be able to take care of yourselves, by allowing no man to represent you in the Legislature who is not solemnly pledged to resist any and every attempt to levy money from you for purposes of this description. You will be aided in this by the Representatives of other counties, whose people have been dealt with in the same way. There are many of them, and their investments are almost sure to be no better than ours, under a system which was invented to bolster up worthless enterprises, and to open a compulsory access to the pockets of the people.

Taking it then that you are not bound by an inexorable fate, as the advocates of the Railroads and bondholders would have you to believe, the next question is, what are you to do? If you have a defence, you will make it of course. You cannot afford to submit, upon the advice so kindly given to you by those who profess to be your friends, but are no wise alarmed at the idea of your ruin. If it were the evil of a day, and payment would bring you an acquittance for the future, you might choose to submit to injustice, rather than encounter the vexations of a controversy. Then, however, it would be purely voluntary. No sound Democrat or Republican could advise you to submit

quietly to wrong. But payment, unfortunately, brings no relief. The cancer is still there and still eating into your vitals. From the moment it fastened upon you, your prosperity began to languish, and your rate of progression to decline. With richer natural endowments than any other inland community in America, you have fallen behind when you ought and must have led in the race of prosperity, if the bounties of Providence had not been neutralized by the folly and profligacy of your rulers. The shadow has been projected on you in advance. You stagger under the very apprehension of what the future has in store for you. No arithmetic can compute how much you have already been injured. When the whole force of the blow shall descend upon you like an avalanche, the principle of growth and life will be extinguished entirely. Nor is the force of that blow to be measured only by the amount of the debt. A perpetual mortgage of even $14\frac{1}{2}$ per cent. is a diminution in effect to *one-third* of the value, if it does not render the property entirely unsalable. The prospect of a *three* mill tax drove many a farmer from Pennsylvania. Will the prospect of a 12 or 22 mill tax invite anybody here? Who will willingly venture his goods in a trade where piracy is legalized by the commercial code? Who will put his hands into the lion's mouth, when he can invest his means securely elsewhere? Will the people come up to Pittsburgh as the Jews were wont to repair to their capital at the bidding of the Cæsars, merely "to be taxed?"

You cannot afford to yield then where concession brings no relief, and the sacrifice must be a total one. You cannot pay without ruin. The makers of this debt have indeed settled that question by swelling it to a magnitude which renders payment impossible. You have no choice therefore but to defend yourselves. The men who advise you to submit are not your friends, or the friends of the County or cities, but are, whether they intend it or not, your worst enemies, as they have been your worst advisers. If they had been truly what they profess, they would never have driven you to such an alternative. Men do not so deal with the interests of those they love.

They tell you, however, that this is repudiation—that repudiation would be infamous—that the credit as well as the honor of our communities would suffer, and that sound morals enjoin the sacrifice.

Is this so? Has it indeed come to this dreadful alternative? Have these men hurried you to the brink of the giddy precipice, with ruin yawning at your feet, and ruin, not less hideous, menacing you from behind? Must you die in order that you may live? Must city and county perish to save their honor—

or is it only the honor and credit of your advisers that are at stake? Does the law of conscience say "pay?" If it does, then we say so too. Perish then the county and cities, with all their high hopes and glorious prospects! Let the widow and orphan be turned out of doors, if need be, and let the bondholder enter forthwith upon his possession, and the debt be paid to the uttermost farthing!

It is not so, however. These debts are not of your making. They have never had your assent. They never could have had it, if you had been consulted. You were not consulted, because it was well understood you would refuse. You could not prevent it, when you were denied even the privilege of dissent. It was a proceeding between the Legislature and their agents, and the Commissioners, from which you were excluded, on the hypothesis that it was none of your business. The high contracting parties dealt with you as a subject province in a treaty between independent sovereigns. Your consent was not regarded as of the slightest consequence. Nor were the bonds purchased by any man on such a presumption. The inquiry was not even made. The buyer did not care whether you consented or not. The subscription and the seal were but a formulary prescribed by your pretended masters. The grand jury and Councilmen who made the one, and the Commissioners and Mayor who affixed the other, were no more your agents, in these acts, than they were the agents of the people of Philadelphia, *and not as much so*. The duties were not such as pertained to the offices of either. The buyer cared not for you. He considered that he had *bought* you from the Legislature. He came here merely to take the transfer from the nominal authorities, relying not on your consent, but on a power which he supposed to be above you, and able to *compel* you to make Railroads in other counties, whether you were willing or not. And this was precisely the language held, at the time, to the refractory, by the advocates of these arbitrary measures. "*We will make you subscribe; we will build Railroads with your property, whether you will or not,*" was the common utterance of the very men who now falsely assume that these debts were made by you, and edify you with such pious homilies about repudiation! Where there is no moral agency it is the sheerest nonsense and hypocrisy to talk about a moral obligation. The men who hold this language are not probably aware that the whole question was settled in the case on which they rely as a question of mere *power*, and therefore, in effect, a political one, and that *consent* or *contract*, either *expressed* or *implied* did not enter as an element into its solution. It is simply a question then between *power* and *privi-*

lege—between the government and the man—between the creature and the creator. If it be a crime to resist or question the unlawful exercise of the taxing power, even by constitutional means, then have our sturdy ancestors passed into hopeless condemnation. There were men in the revolution, as well as now, who worshipped power, and loved their ease, and counselled submission, but they heeded not such advisers, and were content to be called *rebels*—as we are to be nick-named *repudiators*—until their oppressors came to understand and to respect them.

Where, then, is the moral obligation, and where the infamy? We trust you will not be frightened by hard names. There is no harm in refusing to pay the debts of other people. That is a kind of repudiation which is very general. To pay his own debts, is all that is required of an honest man, and is about as much as most men are able to attend to. To give away his property at the bidding of the reckless, or the profligate, would be to take from the honest and bestow on the undeserving, and would be an act of injustice as well to our families as to our creditors. But this is not all. The cause of morality is not to be subserved by pandering to vice. It is as much the duty of a good citizen to resist injustice, as it is to obey the mandates of the law. The infamy does not attach to him who resists, but to him who unjustly attempts to invade the property of his neighbor. It is the men who made these debts heedlessly, recklessly, and without knowing how they ever were to be paid—it is the men who now endeavor to rob you for that purpose, who have the most reason to blush for their conduct. It is admitted by the Judge who gave the casting vote on this question, in an opinion that savors much of the character of an apology, that all legislation to authorize these things is “impolitic, dangerous and *immoral*.” The same Judge had previously declared in his letter to the Commissioners of Somerset county, that such subscriptions are “not *honest*,” that “they rob labor of the bread it earns”—that “they create public debts for *private* purposes”—that if they can be made “there is an end of all protection to individual rights”—and that “the Commissioners of a county have no *moral* right to make them, though *backed* by the wishes of a majority of the people.” If all this be true—and it is testimony drawn from the defenders of these laws themselves—it is the authors of the calamity—the men who legislated—the men who made these debts—and last, but not least, the men who are not unwilling to ruin you by fastening this burthen upon your shoulders, that merit the reproaches not less of the moralist than of the freeman. If these subscriptions are not honest,

it is surely not honest to enforce them. If the people did not make them, the levy of a tax for such a purpose is no better than highway robbery. Its advocates might as well have set fire to your houses, and then endeavor to prevent you from extinguishing the flames. Your property is, or ought to be, as sacred as your lives. It does not belong to the Government. It is yours by a higher charter than man can give. It owes, it is true, a *fractional* contribution for the support of government. That, however, is but the return for the *protection* which it receives. Beyond that, the Government has no right to meddle with it. It cannot *take* it under the pretence of *protecting* it. When it withdraws its protection, it breaks the tie of allegiance and sweeps away the very basis of the obligation. Nor is it to be taken because the bondholder may be honest and would otherwise suffer. It was not honest to buy these bonds under the temptation of heavy discounts, and thus confederate with the seller in the attempt to cheat you.

He is not, however, any more honest than the owner of the freehold on which he claims to have a lien—nor any more an object of sympathy than the helpless victim. He has the demerit, too, of being a *volunteer*. The man whose farm has been mortgaged without his knowledge or consent, has done nothing to mislead him, and may stand, as in other cases, upon his *possession*. To rob him because another has allowed himself to be swindled, is only to repair one act of injustice by another and greater. To resist such injustice is more than a mere *right*. It is of the character of a duty. Nor is any man to be allowed to plead indolence as an excuse. The duty is a *political* as well as a *moral* one. Our liberties are an inheritance which has cost us comparatively nothing, and a trust, therefore, like our estates, for our posterity, which we are equally bound to preserve and to defend. If we prove recreant to this great trust, we are but slaves ourselves, and not worthy to be the progenitors of free-men. The principle which would bind you here would equally authorize the Legislature to place it in the power of the County Commissioners, or any newspaper editor in Pittsburgh, to seize your farms to-morrow for any purpose which they might suppose to be for your advantage! It abrogates the law of the Decalogue by confounding the distinction between *mine* and *thine*, and strikes a death-blow at the social state itself. True patriotism and sound morals alike cry shame on it as the foe of social order, of progress, and of private right. Call it resistance, repudiation, or by what other name you please, submission would be only less infamous than the infliction itself.

But then the honor and credit of the town! Well, this seems

to be an untiring theme with those who have perilled the one and destroyed the other! If they have suffered, as they truly have, the obvious remedy would seem to be one which has not been thought of by your advisers, and that is to get rid as speedily as possible of those who have ruled and ruined you. If a physician has poisoned your family by his quackery, you would scarcely think of allowing him, under pretence of cure, to complete his work by administering another dose of his own medicine. You would discharge him, of course, and that is precisely the first step in the way of recovery here. The honor and credit of the town and county will both return as soon as it is felt and known that they are free from debt, and that property here is once more secure. Their *corporate* honor is a matter which is in the keeping of the Legislature, and not in ours. They are but governmental agencies which may be changed at pleasure, and if they are to be used as they have been, in farming them out to railroad companies, it is idle to talk about any efforts on *our* part to preserve an ornament at once so cheap and so expensive. Their *corporate* credit is one of those equivocal blessings which a wise man would rather dispense with, if it is to be entrusted to others for the ruin of his property. It was the overthrow of the public credit that saved the State in 1840. If we had been without credit here, we had been without a railroad debt. If our credit had held out a little longer, we should probably have been left without any property. Our individual honor and credit are another and different thing. We are bound up in no commercial partnership, thank Heaven, with those who made these debts. The county and cities are one thing, and the people another. If individuals will pay their own debts, and observe all their own obligations, they may rest easy in regard to the honor and credit of these communities. These jewels will be no more tarnished by resistance to unlawful taxation than were the honor and credit of the Colonies by the Revolution; and much less so than the nation deserved to be, for the practical repudiation of its legitimate revolutionary debt. It is the State only, and her agents here, that can suffer in such a controversy.

We come back then to the consideration of the remedy. The mischief is a great one. It is impossible to exaggerate it. It is a life and death question. It concerns no less than the existence of these communities. The danger is that it may be undervalued, from the difficulty of even realizing such a power of ruin let loose upon a free community. We wish to give the question a practical aspect. We have already referred to the legal remedies. There are other modes of relief, however, not less efficacious, and perhaps more certain in their operation, which are

peculiarly your own. You have tried the efficacy of advice, and recommendation and remonstrance. At your recent Convention you protested against this tax. You asked, as a favor, that it might be divided, in order that you might know and pay what was confessedly legal. You insisted on a divorce between our corporations and the railroad companies. You objected to the purchase by the Pennsylvania Company of the Main Line of the Public Works. You recommended the immediate acceptance of an offer made to re-exchange the County Bonds for the stock held by us in that road. Your advice and remonstrances have been disregarded and contemned. The men who are in power, and their advisers, are leagued with your pretended creditors, and obviously bent upon your ruin. You have the means, however, of causing them to be respected hereafter.

The ballot box—your weapon of defence—is open to you. The elections are approaching. If you would save your property and restore the prosperity of these communities, you must get rid of the influences and put down the men whose acts and counsels have so nearly ruined you. You have no choice left. It has become a matter of absolute and urgent necessity to take the affairs of the county into your own hands. There are Judges to be chosen at the approaching election. The people make them, and it is not an improper subject of inquiry, surely, whether any of the candidates hold the opinion that the Constitution furnishes no security to property, and that the Declaration of Rights is to be construed strictly as against the citizen. There are members of the Legislature too, to be selected by the people. Without special legislation there is no authority to tax. It concerns you to know who are in favor of such laws, and who would vote against them. You have a County Commissioner to choose. You want the control of that office especially. It is now the stronghold of your enemies. It is essential to your welfare that you should throw open its doors, and let the light in upon the hoarded mysteries of that chamber of death. You can send your committee back again this fall, with fifteen thousand voters, to demand its keys, and teach its inmates what sort of a "mob" they have been dealing with. It is for you to see that the man who goes there shall not be or become the agent of the railroads or the collecting attorney of the bondholders, or consent to levy a tax from you, under any circumstances, for railroad purposes. You have a Treasurer to choose, also. You must have a man in that office who will pay no warrants drawn upon him for objects of that description. You have an Auditor to select. It is his duty to examine and pass upon the public accounts. You want a man for that purpose

who will keep the Commissioners and Treasurer in check, and see that the public moneys are not squandered for illegitimate purposes.

All these are matters of a purely local character, which concern us much more deeply than any mere speculative opinions on the subject of national politics. Political parties are organized for the conservation of our natural rights—which are our liberties—and one of which is the inviolability of property. They all profess to aim at the same object, though by different means. They are all founded upon the supposed existence of such a thing as property. If the notions now current amongst your advisers, and supposed to have the assent of the Supreme Court, are to prevail, and your freeholds may be mortgaged and seized, as it insisted in some quarters that they may be, it is idle to talk about property. There is no such thing. That is a question therefore, which you must settle in the first instance, because without property there is no occasion for parties, except as mere tools for demagogues, or playthings for children. On this point there can be no substantial difference between true Republicans and true Democrats. We hold that no man is entitled to be called by either of these names who entertains opinions that are at war with the securities of property. The question of the preponderance of the Free or Slave States, as referring to the great future of this confederacy, remote in its bearings upon us, and strictly national in its character, is one upon which men may honestly, and we hope safely, differ. We cannot differ safely upon the question whether we shall be slaves ourselves. We may, and ought to agree on this point, all of us. If we do not, the lovers of freedom at least, the conservative men of both parties, cannot afford to divide upon so vital an issue as this. The question of Taxation for Railroad purposes, at the arbitrary will of the Legislature, and without regard even to equality, is one that comes home with overwhelming power to the business and bosoms of all of us. In an election like that which is now approaching, it is indeed the only real, living, breathing and practical issue, as it is by far the greatest that has ever been before you.

In view of these considerations then, your convention, assembled without distinction of party, thought proper earnestly and anxiously to invite the attention of the nominating conventions of both political parties in this county to the great local grievances under which you were suffering, and the still greater with which you are threatened. You informed them explicitly that you desired and demanded justice to yourselves, security to your property, a thorough inquiry, and an entire

reform in the administration of the affairs of this county. You indicated the several matters of complaint, and you admonished them that you would support no man for office who did not come up to the standard which you had prescribed.

The Republican Convention assembled on the following day. It *ignored* your existence, your opinions and your wants. Its press condemned your action, and suppressed its results. It placed a ticket in nomination without promising a reform, or vouchsafing even a reference to existing evils, in the most alarming crisis that had ever occurred in our affairs. It contented itself with a mere declaration as to the principles of a case which touched the liberties of the black man, without a word in relation to another and a greater which clove down the liberties of the white man, blasted the prosperity of city and county as with a plague, and smote its own constituents with civil death. There was the usual scramble for office, and no thought given to the fact that town and country were in mourning. It placed upon its ticket the editor of a newspaper who had suppressed the report of your Convention, and who is not ashamed to libel the cause and the men of our revolution, by sneering at the cry of "increased *Taxation*" as a mere "money issue"—"a gaunt and spavined hobby"—unworthy to be ridden by any advocate of freedom. It had no sooner adjourned than the boast was heard upon our streets, that every man who had voted with the majority in your Convention—or in other words—every man who had favored even inquiry into the honesty of these railroad debts—was *marked* in that Convention. The same sentiment was publicly announced a few days afterwards in a communication, published without remark, in the newspaper of the same candidate.

Your Committee lamented all this deeply. Some of them were Republicans, and desired earnestly to see their party ticket pledged in favor of what they believed to be their honest and almost universal sentiment. All of them were *citizens*, and all anxious for entire harmony between the parties upon this great domestic question. They believed that a strong expression of sentiment from the first Convention would lead to a like expression from that which was to follow. The sentiment of the Republicans, unfairly smothered as they believe, by city management, was not however, allowed to find expression. Your Committee were deeply disappointed, and they determined to await the action of the Democratic Convention, resolved as one man, that if it too refused to respond to what they knew to be the popular sentiment, they would throw themselves upon the people,

and make the issue of *tax or no tax—property or no property—reform or ruin*—by a direct appeal.

The Democratic Convention assembled in August. Its members were not unadvised of the wishes and necessities of the people. The popular cry had come up in thunders to their ears, and they responded without hesitation to the just and reasonable demands of the suffering Tax-Payers. Realizing their obligations to the people, respecting the voice of your convention, and alive to the momentous and urgent interests of the great local issues which were obviously destined to overshadow all others, they turned their attention at once, and mainly to these questions, and satisfied every requisition which had been made upon them. Their platform of principles on this subject is before you. Your Committee had no difficulty in understanding its meaning. The tone of their primary meetings, and the address of their State Central Committee, denouncing the policy of municipal subscriptions to Railroads, and treating the question of their constitutionality as more than doubtful, and at least an open one, would readily have determined that, if it had, in their judgment, admitted of a doubt. They were content with the expression of that body, and was accordingly prepared to indorse and recommend its ticket. They were not, however, allowed to hold their opinions unquestioned. The Republican Press, in salutary dread of the public sentiment which was now making itself but too manifest, insisted that it did not *mean* what it seemed to say, and to their infinite surprise, its own newspapers concurred in that opinion! With this new and violent reading, in direct variance, as they thought, with the whole tone and spirit of the Resolutions, and thus *semi-officially* indorsed, there was but one course left for them. They were not willing to be duped themselves—to be made the instruments of misleading others—or to allow you to be juggled out of your purpose of self-protection and reform, by the assurance that you had no more to expect from one ticket than the other. They accordingly addressed at once the following interrogatories to the candidates of that party, with the request that they should answer “yea” or “nay,” without equivocation or reserve:

First. Are you in favor of levying a tax from the people of Allegheny county, or either of the cities of Pittsburgh or Allegheny, for the purpose of paying the interest on bonds issued for subscription made by Commissioners or Councils, to the capital stock of Railroad Companies?

Second. If elected to the office for which you have been nominated, will you refuse to assess or levy a tax for any such purpose, and will you, in good faith, oppose the passage of any law authorizing any such tax?

Third. Will you, in good faith, aid in securing the passage of a law limiting taxation to purposes strictly municipal?

The answers of the candidates were promptly given, and are, as we expected they would be, direct, pointed and precise. They pledge themselves distinctly against taxation for railroad purposes, against the passage of any law to authorize it, and in favor of an act to limit taxation to purposes strictly municipal. The resolutions of their convention had already committed them against the whole system of free tickets to members of the Legislature, Judges and newspaper editors, as an insidious means of corruption, which called imperatively for public intervention.

Your Committee, in view of the previous refusal of the Republican Convention to respond to your own urgent appeal, as well as of the published opinions and acts of several of their candidates—one a newspaper editor, and two others, members of the last Legislature, who voted for a law to tax the people of this city, which no man can justify—might have stopped at that point. Some of them were, however, Republicans themselves, and deeming it no more than an act of justice to afford the candidates of that party an opportunity of speaking for themselves, they accordingly addressed the same inquiries to them.

The general reply which speaks for all of them, we believe, except one, will tell its own story. The answers are evasive. Instead of informing you whether they are in favor of taxing you for Railroad purposes, they tell you that they are in favor of *investigation*, and opposed to the payment of any bond which has been *fraudulently obtained by the holder*. They do not object, however, to the present tax, or propose to withdraw the duplicates, and leave the bondholders to their remedies. You are to pay *first* and investigate *afterwards*, if you choose, at your own expense, provided you can find your way into the Commissioners' office, which they do not, however, promise to open to you. They will stand by you when the bond has come fraudulently to the holder. If it was fraudulently *issued*, they have no medicine for your ailment. If you and the holder are both wronged and both innocent, they send their sympathies abroad, and refuse you, their neighbors, the advantage of the legal axiom. The answer is, however, a substantial affirmative, or in other words, that they are in favor of taxing you for railroad purposes.

To the question whether they will, in good faith, refuse to assess a Tax, and oppose the enactment of any law to authorize an assessment for such a purpose, they make no answer whatever. The importance of this question is already shown in the

suggestion that the corporation is one thing, and the people are another, and that even a judgment against the former imports no right to seize the property of the latter for its payment. The general tenor of the reply involves a *negative* to this question.

To the inquiry whether they are in favor of the passage of a law to limit Taxation to purposes purely municipal, they answer affirmatively, *with a saving clause* in favor of debts already incurred. They are *not*, therefore, in favor of the passage of a law to prohibit Taxation for the payment of debts already incurred by your Commissioners and Councils for Railroad purposes.

On the subject of free tickets—a systematic abuse, and an insidious but immeasurable element of power, which does not merely affect your own supposed interests, as stockholders, but threatens the entire subjugation of this Commonwealth—no question was necessary, and none, therefore, was put to the candidates. The Democratic Convention had already answered distinctly on that point, while the Republican press had publicly reproved their interference, on the ground that it was no concern of theirs, or of any body but the stockholders—thus openly proclaiming, in effect, that there is no public mischief in purchasing the good will either of a Legislator or of a Judge, provided, it is done with their own money!

There is one gentleman, however, on the Republican ticket, who is not responsible for these utterances. Your Committee, looking to the success of no party, but to the constitutional securities of the citizen only, are rejoiced to find, in the midst of the general defection, one shining example of loyalty to a great principle, in the person of THOMAS KIDD00, one of the candidates for the Legislature, of that party. “Faithful amongst the faithless”—unmoved and unseduced by numbers or example, and with a sense of self-reliance and independence that does him honor, Mr. Kiddoo has not hesitated to brave the displeasure of those who seem to think that the test and essence of Republicanism are fidelity to the bond holders, by answering the questions put to him in the same way precisely as the Democratic candidates, and with a directness and emphasis that show him to be in earnest. He is opposed to taxation for railroad purposes, and will vote against any law to authorize it, and in favor of a law to limit taxation to purposes strictly municipal.

The lists then are at last fairly adjusted. The Conventions and the candidates have each chosen their positions, and must abide the consequences. There is no question of Republicanism or Democracy here, except so far as concerns a single candidate.

It is the merest *child's play* to attempt to fasten upon either party the responsibility of these subscriptions. We should be sorry to confess that they belonged to either. Individuals may be found in both who favored them, and the Press of both unquestionably did the same, but we altogether deny the right of either to speak for us as a community, or to be called by our names. The great question now is—and it is a question to be passed upon by *men* and not by *children*—who are they that take the side of the *Bondholder*, and would enforce this claim even to our common ruin?—and who are they, on the other hand, that are on the side of the people? The Republican Tax-Payers are denied the privilege of voting on the mere party issues by the voluntary act of their own Convention, in espousing the cause of the Commissioners and the Bondholders, by refusing even to notice or condemn the most outrageous abuses, and thus gathering them all under the cover of their own protecting wings. They have thus thrown themselves into the false and fatal position of attorneys for the creditors. You, fellow-citizens, are the debtors whom they are proposing to coerce. The interests of these two classes are essentially antagonistic. The same attorneys cannot safely represent you both. You require agents of your own, and if you can find men who will agree to protect your interests and serve you on your own terms, it will scarcely be expected that you shall refuse to employ them, merely because they happen to be Democrats, and to put your cause into the hands of your adversary's counsel, merely because they *profess* to be Republicans. They offer you Republicanism *with the Bonds*. You cannot have it *without* them. You must take it with the incumbrance. They have been so *married* by the act of that Convention, that infidelity to the latter, in the answer of a candidate, is publicly declared by its Press to be a sufficient cause of divorce from its ticket and party, for which no amount of zeal or devotion to the Republican cause is to be received as an expiation. Fidelity to the bondholder is thus, by their own election made the test of *orthodoxy*, and the whole issue narrowed down to the one practical question between the bondholder and you. The declaration already made in the press of his own colleague that Mr. KIDDOO has cut himself off *from his party* by his answer, is a confession of this truth. Nor is the issue now to be evaded. If the ticket nominated by the Republican Convention is elected, it will not help you either in the Commissioners' office or at Harrisburg. All it promises is, *taxes without end, and ever taxes*. Its election will be a public judgment—whether you intend it or not—on the question, and a

public confession of your liability and willingness to pay this tax, and all that are to follow it.

The election of the Democratic ticket, on the other hand, while it can in no possible way, affect the great national issues, will place the public offices in the hands of those who agree with you at least in the great practical question of resistance to Railroad Taxation, and who will be invested with no powers of any other kind that can possibly be used to your injury. That party has already in the office of the County Commissioners a representative who has another year to serve. Its records show that he objected to the present Tax, and registered his solemn protest against the action of the Board in imposing it. **THE ELECTION, THEN, OF J. H. McELHINNEY WILL MAKE THAT OFFICE YOURS THIS FALL.** You can send him there with a majority of votes that will demonstrate your opinions in such a way as will not be misunderstood, and with the evasion of the Railroads, and such instructions as he will have from you, we see no reason why the present tax should not be revoked, the duplicates recalled, and the bondholders turned round to their legal remedies. To accomplish even this would be worth a sacrifice. It will involve no sacrifice at all. If it will help the Democrats, it will help us all. We would not refuse such a boon at the hands of any party. We would not stop to inquire whether any good thing could come out of Nazareth. We would consider it cheaply purchased by the contribution of all the votes we have to bestow; and if any doubt is entertained on this point, we have only to refer to the revelations just now made, for the first time, from the minutes of that office.

We have already indicated the several offices which it is essential that you should secure. Beyond that point we may afford to separate, and every man to follow that direction in which his party attachments may lead him. Your committee are divided in their politics. They think it will be conceded that there are amongst them men whose attachments to the principles of their respective parties are as strong, and who would go as far to serve them honestly, as any other men in the county. They have, however, no party interests to serve in this matter, and will not consent to sacrifice either their own rights or yours to any mere party organization. They look only to the opinions and pledges of the men who are now before the people as candidates for office. They know and feel that in this direction lies *safety* to all—without distinction of party; in any other, **RUIN**. The Republican members will give the preference of course to their own party, so far as they can do it safely. For the offices to which they have referred, there is but one candi-

date, however, for whom they feel it possible for them to vote. Beyond that candidate they have no alternative but to support those who think as he does, without regard to their party name. They will be prepared to fall again into their own ranks for the great national battle, when our domestic altars are again built up—when the common enemy—the enemy of the growth and prosperity of these great communities, whose dark shadow is now over us, repressing our growth and stifling the very pulses of our life, shall be forever put to flight. You will do as you please. It is not their right to dictate. It is their province, however, to advise. They feel that the action of the Democratic Convention, and the answers of their candidates, have opened to you a safe path, and, possibly, the only one, out of the deep gloom which surrounds you. They cannot turn their backs upon it. The members of that party are pledged to follow it, and will do so, of course; and the Republican members of this Committee, believing it to be no more than the honest sentiment of their own party, and yielding to no other men in fidelity to all its principles, but joining hands with their Democratic associates, who have stood manfully by them, through reproach and contumely say to their Republican brethren, "Go and do likewise." Mistrust not your own power. Hearken not to the degeneracy which would advise a quiet and unresisting submission to the deprivation of a great constitutional right, or disparage, as a mere "money question," one of these great issues upon which the battles of our race for freedom have been almost invariably fought. On such a question, to use the language of the late Chief Justice Black, "we can not and we will not, be ultimately beaten." The victory of a great popular right will save us from present impositions, teach party managers the necessity of deferring to the will of the people, and make the inviolability of property the common sentiment of both parties hereafter.

By order of the Committee.

THOS. WILLIAMS, Chairman.

S. H. GEYER, Sec'y.

The results of the appeal and the campaign that followed were successful, and the new board of commissioners, under the guidance of Mr. Williams, as counsel, whose services were freely given, began a systematic course of resistance to levying taxes for the disputed purposes. The amendments to the Constitution were carried also. It is not the purpose to follow out the affair in all its details, but only those striking and vital

features which illustrate the force of Mr. Williams' work.¹ There were many cases that grew out of these railway contests in which Mr. Williams was engaged, especially involving Allegheny County and various municipalities within her borders. One of these was that of one Joseph T. Thomas, who secured from the Supreme Court of Pennsylvania an alternative mandamus ordering the commissioners to levy the necessary tax to pay interest on bonds of which Thomas was a holder. This was on May 21, 1858, and was heard later, with Harding and Meredith for the bond interests and Williams for the commissioners.² The court said the debt must be paid, and on November 11, 1858, made the final decree of mandamus to levy the taxes. The opinion was given by Justice Woodward, and as it can be seen in any lawyer's library it need not be repeated here. Forthwith Mr. Williams issued a "Review" of the opinion, under the pen-name of "Junius," although it probably did not conceal the writer from any one. It is a most impassioned and spirited paper, carrying in its sentences the fire of the conflict, and bearing some most brilliant periods. It projects one into the heart of that conflict as probably does no other paper that has ever been issued. Let it speak for itself:

To the Hon. Geo. W. Woodward and his Associates, Justices of the Supreme Court.

You have just accomplished a great work. Though summary and precipitate, it cannot be said to be imperfect. It is complete in all its parts. The blow so well directed against the rights of property, might have fallen harmless upon our shields. To give it effect, it was necessary to strike down the constitutional defences of the citizen, and it is done. The courage which strengthened your hands for this double achievement, will be disputed by nobody. It behooves those who so deal, however, to see that their footing is a solid one. The rights involved here are of the last importance. Though the book of *Judges* has been well said to press hard on that of *Kings*, it has not always been found by either *Judges* or *Kings*,

¹ As a part of the fight, his "Review of the Opinion of the Three Judges" was again issued on November 4, 1857, with an explanatory preface. He says the then Chief Justice (Lewis) and his colleague (Lowrie), it should be remembered, had dissented vigorously from the opinions of the "Three Judges"—Black, Woodward and Knox.

² 8 Casey, 218.

that it was safe to meddle with such interests as these. Those who adventure upon paths so perilous, must see, if they are wise, that they do not stumble. To escape with safety they must be invulnerable at every point. They must look even to the joints of their armor when they are out on such a mission as this. If there is a flaw, some well-aimed shaft will be sure to find it. If there is a wide-mouthed rent, a "beggar's straw" will pierce it.

This is now your position. The tyranny of the Legislature, which you professed yourselves but yesterday too feeble to check, is now overshadowed by a bolder usurpation of your own. That which was once their imposition, has now become yours. When their power was exhausted, you have stepped in to perfect their work. You have done this voluntarily. You have not waited to be called upon in the usual way. You have gone out of the ordinary path, and dispensed with the ordinary forms, to accomplish the overthrow of the most sacred and inviolable of our rights as freemen. You have allowed your zeal to hurry you out of your entrenchments, and to put you a long way in advance of the requirements of your position. You are now, by your own choice, in the attitude of volunteers, in cases where your authority as Judges has never been invoked. Your feet have been swift as the feet of those who run to shed blood, in the benevolent mission of serving the interests of a creditor without merit, who is aiming at the life of a people without offence. You who were impotent to prevent evil, are now omnipotent when its work is to be consummated. You fled ingloriously, because there was a lion in the way, when the enemy was sowing tares in our fields. Your own sickles are now in, like those of ready reapers, for the harvest of ruin, from which you ought to have turned away with averted eyes.

Of all this, you, sir, have been made the organ and the apologist. There was a fitness in the selection which everybody will admit. You are, if I mistake not, the last surviving member of that unhappy triumvirate, to whose distracted counsels we owe a larger debt of misery than even Republican Rome incurred to hers. On your shoulders, therefore, rested the weight of a double responsibility—one to the money-dealer whom you had misled—another to the freeholder whom you had ruined. Your unfortunate blunder, like the sin of our first parents, had made it necessary that a victim should perish, and you selected the latter as the offering. In this you departed from the example of the Patriarch. The ram that was caught by the horns in the thicket would not content you. It was Isaac—the beloved—the innocent—him who was bone of your bone, and

flesh of your flesh, that was to be laid upon the altar. In vain he pleaded with you his birthright as a freeman. In vain he demanded even the felon's privilege of a trial by his peers. You heeded him not. The judgments of Verres were not more summary than yours. Your brethren stood by with their sacrificial knives, and hurried a whole people to execution by a sentence which merged your first error in a greater one of their own. They thought that the honor of the *priesthood* was at stake, and that it was but right that the flock should perish for the mistakes of the shepherds. They could not defend them, and they threw the responsibility on you. That responsibility is to myself as well as others. I propose to inquire how you have met it. I choose therefore, to address myself to you, without, however, exonerating your associates from that share of it which now belongs to them. It is a heavy burthen which rests upon you all—far heavier, I think, than any of you have imagined, judging from the alacrity with which it has been assumed. It is not, as you seem to suppose, a mere two-penny controversy between John Doe and Richard Roe, where even an indifferent logic must often be taken in satisfaction for a private wrong. If it was, I should not have thought it worth while to trouble you. It towers high above the ordinary level of forensic strife. It is a *public* question of colossal dimensions and fearful import. It is the rights and happiness of a whole people—the property and liberties of 200,000 freemen—the inheritance of generations yet unborn—against which you have been weighing the transient, and perishable, and contemptible interests of a few hundred money-dealers. It is not properly a *judicial* question. It is no *voluntary* contract which you were called on to execute, but a *yoke* which you have *volunteered to impose*, by the assumption of the *taxing* power, for the benefit of the stranger, upon the necks of those whose sword you bear, and whose servants you are. The affair with which you have been dealing, in a way so extraordinary, is, by your own previous confession, a question only of *political power*. You cannot now, *honestly*, torture it into a *moral obligation*, or even an indenture of voluntary servitude. It is quite too big a question to be clouded by the subtleties of the casuist, or adjusted by the cunning artifices of the special pleader. It is one of those great issues of liberty that have not often been trusted to a class of sophists, whose leanings have been so proverbially on the side of power. It is a question, therefore, not of professional criticism only, but of high public concern, which belongs appropriately and pre-eminently to the tribunal of the people. To that tribunal you must answer for what you have just done. It is the court of last

resort. You cannot decline its cognizance. No plea to the jurisdiction will avail you there. Before that tribunal I now, accordingly, arraign you. In that presence I am, at least, your equal. I claim to be one of your judges. I am a citizen and a freeholder, and by right a freeman. I have an inheritance in Magna Charta, of which you have endeavored to rob me. It is to invade my castle, to harry my domains, and to lift my cattle that you have sallied out from your stronghold, like Border Knights. I like not your mission. I will defend myself, if I can. You have left me no choice but to treat you as my enemies. You are now by your own election in a position of exposure, where you cannot defend yourselves and where you are cut off by your own rash and fool-hardy zeal, from all hopes of retreat, and all possibility of relief. There is not a mesh in your whole web of sophistry which cannot be penetrated by the feeblest hand; not a plate in your armor which may not be shivered at a blow. You invite me, as a citizen, to try its strength by the very recklessness of the assault, and the unwonted boldness of your defiance. Your challenge shall be met in such a way as will, perhaps, convince you that you have fallen into the common error of overrating your powers, or undervaluing the intelligence of those with whom you have to deal. It is an easy task to dispose of you. I cannot but make the best of the advantage which you have given me when you are thus aiming at *my* life. I shall cast a spear, therefore, for freedom which, by the blessing of God, will find its way through your defensive covering, were it ten-fold thicker than it is.

You take up the case as it made its appearance here. It has an earlier history, which seemed to foreshadow its disastrous close, and will, perhaps, shed some light upon it. Bear with me then, while I recall the facts connected with its origin.

Your alternative *mandamus* was issued without notice. It came into the world, "limbed and full grown." Nobody here was advised of its advent, or invited to be present at its birth. The practice has always been, the world over, to grant *a rule to show cause*, in the first instance. It was not a case, certainly, to authorize the first known deviation from that rule. You were asked, I believe, to quash it on that ground. You refused upon the footing of an alleged rule, which was never written, had never found its way into the Law Books, and was entirely unknown to the profession here.

It was issued *outside* the proper District, and in a case wherein you had already solemnly declared, that you would quash on motion. 9 Harr. 19. You were asked to do so, and you refused.

It was issued in a case wherein you had held, on no less than two or three several occasions, that it would not lie. (16 S. and R. 317. 2 W. and S. 416. 2 Penna. R. 518.) You were asked again to quash it for this reason, and you refused.

It was issued in a case where the Law had already provided a specific, and exclusive remedy. (Act of 15 Apr. 1834.) For this reason you were again asked to quash it, and again refused.

It did not allege that the Relator had no other remedy, and did not even aver the subscription which you have passed upon. For this reason you were asked to quash it again.

To this it was replied that the objection could only be taken by *demurrer*, and you over-ruled the objection, and decided that a demurrer would be the proper answer to a *writ*!

The defendants then offered a demurrer in connection with their answer. To this it was objected that a demurrer would *not* lie:—and you so decided on the objection!

You were then asked by the Relator to allow him to amend his writ. To this the defendants objected that the writ must follow the suggestion, and that must be verified by *oath*. You allowed him to amend, however, and to supply two of the most material averments in his case, on his own motion, and *without any oath whatever*!

He then demanded a *Peremptory Mandamus, instant*, on the ground that all the Commissioners had not joined in the return, and in the urgent tone of one who was not accustomed to be refused, and who seemed to think that he was entitled to have whatever he might choose to ask for. You refused the application for an immediate argument on this motion, but you refused it only on the ground, that although the writ might *issue* at *Harrisburg*, the case ought to be *heard* at least in the *proper District*; and it was on that motion that it came up for argument here.

The only notice, then, was of a motion for a judgment by default, *for want of a return*. In that state of the Record none other could be legitimately made or heard—as the case stood on pleas which were unanswered. To meet that question, *and none other*, the defendants appeared before you. The plaintiff came, but the object of his mission was changed, by the abandonment of the ground on which the cause had been set down for argument. On this exhibition and objection made, you were obliged to admit that the motion could not be entertained. It was your duty then to dismiss the cause, because there was no issue, and no question, therefore, properly before you. You would have done so in any other case, as is known to be your invariable practice. You were asked to do so here, and you refused.

You were then asked to compel the Relator to *demur*, if he insisted on an argument. You refused this also. You chose, on consultation, to *consider* him as having done that which was regarded as too perilous by himself. This you had no right to do without the consent of the parties, unless you were authorized to dispense with the rules of pleading, and the statute itself. If you were so authorized, it was the right of the defendants to claim a reasonable indulgence. You compelled them to go on without notice of an issue. You declined to say whether any argument would be expected on the Constitutional question. You offered no extension, although its necessity was intimated, and to the astonishment of the whole bar, without an issue upon the Record, you passed upon the greatest question that was ever before you, in a way in which you have never before ventured to pass even upon the smallest. In so doing, moreover, while you dispensed with all observance of forms on the part of the Relator, and even aided him with a demurrer, you subjected the answer of the defendants, *without notice of formal exceptions*, to the minutest of *verbal* criticisms, and absolutely overruled their pleas upon objections which were precluded by the very issue which you had made for them! It is the first instance, I suppose, where a Court has undertaken to demur for a suitor, and the first, certainly, where they have refused to compel him to answer in any way, at the instance of the adverse party, and then supplied his default by entering a judgment *in his favor* upon grounds like these! When you admit, as you now do, that a demurrer was necessary under the provisions of the Act, and in order "to preserve the symmetry of the Record," you decide that your judgment was unauthorized, and that it deserves to be treated as a nullity.

I note these matters only by way of preface. Incredible as they may appear, I think they are fairly stated. I intend you no injustice. Though you may forget yourselves, I see nothing in your example to provoke me to imitate it. I would "rather extenuate than set down aught in malice." If they are strongly stated, it is because the rights involved are the very highest which we enjoy, as they are essential to the preservation of all that are still left to us. It is the Great Charter of our liberties that is at stake. In such a crisis it becomes the freeman to speak out in such a way as not to be misunderstood. That which it would be treason to rob us of, and a worse treason, if possible, to surrender, cannot be too strongly defended.

I now proceed to inquire upon what grounds you have undertaken to deprive us of these rights and how far the act is to be excused by the reasons which you have offered in support

of it. It will turn out, I think, that like your conclusion itself, they are precisely such as might have been expected from such a preparation. If there be a single one of them which will pass the ordeal of a fair and liberal criticism I have greatly underrated them. If there be one redeeming feature in your whole opinion—one single material point on which any tolerably respectable lawyer in America would be willing to peril his reputation as either a jurist or a pleader, it has more merit than a careful study, with all the powers of analysis which I have been able to bring to its examination, has enabled me to discover. I pledge myself to satisfy even the unlearned that you have justly forfeited the public confidence, and wrecked the whole venture of your professional wealth on that disastrous opinion.

You begin by stating the case as described in the writ which refers, *inter alia*, to a subscription of \$300,000, and then say, "such is the Relator's case," and as such "it is an appropriate one for a Mandamus." This is summary and oracular. Allow me to say, however, that it is not his case at all, as *sworn to*, but his case only as *amended* on the suggestion of *counsel*, which never before was treated as a legitimate portion of the plaintiff's case in a proceeding by Mandamus. The averment of a subscription of \$300,000, came in after answer, and *without oath*. It was not, of course, the case upon which the County was brought in, or the Court was authorized to pass.

But why is it an appropriate case for a mandamus? Admitting it to be *his own*, and not substantially *yours*, the answer is—"because the Relator does not ask for *judgment*, but merely that the proper officers may be compelled to *provide means for paying* the interest." Are you serious, or do you intend to trifle with us, as though we were children? Is it possible that a grave tribunal like yours would condescend to borrow a *quibble* from an ingenious advocate, to parry the force of the objection, drawn from your own repeated decisions, that the party who asks for a Mandamus must obtain a *judgment* in the first place? Do you expect to satisfy anybody by such a mere evasion as this? Do you wish it understood—as you must decide, if you are consistent—that the relator is not to be *paid* out of these moneys when collected, without first establishing his right? If you do, it may turn out that he has no right at all, and you will then have enacted the folly of compelling a levy where there is perhaps no *debt*, and that, too, at the instance of a man who has no *title*, in a proceeding, where the title must in all cases be an *unquestionable* one! If you do not wish to be so understood, it is then the case of an *execution* without a

judgment. Here, then, is a dilemma. Which horn of it will you take? The Relator's counsel were impaled on the former in the presence of the whole bar. Will you take the latter, maugre your own repeated decisions to the contrary, which you had not the candor to notice, or the courage to overrule? If you will, every other creditor will soon become as modest, and as reasonable, and as wise as the Bondholders, and be ready to swear that he wants no *judgment*, but will be satisfied with the *money*. The era of temporal judgments will, of course, have an end when nobody wants them. The high prerogative writ of mandamus will become the writ of writs. A perfect fusillade of them will soon be rattling over our heads, and you may locate forthwith at the metropolis, and look for a flood of importunate creditors, who will borrow the aid of Philadelphia lawyers by the same argument, and with the same success, to help them to the money of our people, and relieve them of the burthensome process of bringing their claims before a Pittsburgh Jury.

It is not denied by you that to give this jurisdiction the case must be one where the party has no specific remedy. You say, "it is obvious there is no other adequate legal remedy" here, because, *first*, our Acts of Assembly impose no penalty for refusing to provide for a County debt, and if they did, the mandamus would lie at any rate; because, *secondly*, the holder would be obliged to sue every six months, and there being so many of them, it would be expensive to the County, and the remedy would, therefore, be so *inadequate*, that the law must furnish something better, even if immediate payment were the object; and, because, *thirdly*, the object is not *payment*, but only to put the Commissioners *in motion*, to execute the duty of *providing* for these debts.

The *first* of these reasons is admitted by you to be no reason at all, and will, therefore, require no answer.

The *second* is a novelty, and if it amounts to anything, would make the remedy a proper one, in every case where the instalments were numerous, unless it is admitted—as seems to be taken for granted—that these Bondholders are a privileged class, and that what is law for other people is not so for them. The expense to the County, is, however, a consideration with which neither you nor the Bondholders have anything to do. When the people, themselves, think proper to complain, it will be time enough for such gratuitous exhibitions of tenderness. They mistrust them when they come from those whose interests in their Treasury *are* only prompted, apparently, by a regard for the individuals who have claims upon it. To say that the remedy would be inadequate on this account is simply preposterous. But

the idea that for this, or any other reason, "the law must furnish something better" to the private suitor, is a startling one. It means nothing less than that the *Courts* themselves shall do it, wherever the *Legislature* has not made every thing as complete, and summary, and expeditious, as their impatience would demand. And it declares a principle, which has been more than once, solemnly repudiated, in the opinion that to authorize the writ, it is not sufficient that the remedy is a *tedious* one.

The *third* of these reasons is but a new presentation of the argument that the Relator does not want a *judgment*. The question has been already asked, whether it was intended that he should be *paid* out of the moneys which are to be collected. It is here answered that it is not *payment*, but *movement*—*the act of getting ready*—for which there is no adequate remedy, and which, therefore, must be met by a *mandamus*. Well, this is a desideratum, indeed. It is a very common failing amongst the *debtor* class to fall into sluggish habits, and if any means can be devised for quickening them into activity, *even before their debts are due*, it would doubtless be a good thing, and might possibly have the effect of making a speedy end of the whole credit system itself. If, for instance, the farmer could be compelled to put in a double crop, the mechanic to get up a little earlier, and work a little later, and the laboring man to hoard his gains instead of spending them, we might come to realize, by and by, the very *Utopia*, of which the Chief Justice so learnedly discourses. In this view, therefore, the *mandamus* would no doubt prove a very admirable and convenient expedient for the benefit of the Philadelphia merchant, as well as of the Philadelphia lawyer. Its effect, however, would be only a *moral* one. The parties who are disclaiming, through you, all idea of *payment*, must rest satisfied, of course, with an active *demonstration* of the Commissioners in the required direction, and the Judges of the Supreme Court, without Legislative powers, and with no other mission than that proclaimed in the opinion of the Chief Justice—to set the *hearts* of the people right—will be no more than so many itinerant preachers, crying, like John the Baptist in the wilderness, "*prepare ye the way.*" The sum of the argument is in the first utterance of the prophet. It is *preparation* in the one case, and *motion* towards *provision* in the other.

Having thus demonstrated, as you suppose, in this summary way, and by the species of argument which has just been examined, your postulate that "it is obvious that there is no other adequate legal remedy" in the present case, you then proceed to discuss the history of the writ, and to show its application, in many instances, to compel the performance of ministerial

duties by Corporation Officers. It is a singular fact, however, and one which will be remembered to your disadvantage, because it was impossible that it could have occurred without intending it, that you should have entirely overlooked the double objection, that there was a remedy already provided by law for the enforcement of all claims which might be recovered against a county—not merely *adequate*, but absolutely *exclusive* in its nature—and that you had already, more than once, absolutely refused to allow a writ of mandamus against the Commissioners, on the well-settled ground, that it was not the appropriate remedy. You were perfectly well advised that by the 6th Section of the Act of 15 Apr. 1834, it was provided that “if judgment should be obtained against a County in any *action* or *proceeding*, the party entitled to the benefit of such judgment, may have execution thereof, *as follows and not otherwise*.” I need not recite the process. You know what it is. You know too, that it has more than once been decided by you, that the remedy was an *exclusive* one. You know further, that on two or three several occasions, you had solemnly adjudged that a mandamus would not lie against the Commissioners of a County—if it will now lie at all—without a *judgment*, and that too, even without reference to the question, whether the claim was disputed or not. All these things you knew, and were bound to know. And yet you have *ignored* them—Acts of Assembly and all—while you go to England for authority to show that mandamus was once a *Legislative* power, by way of hint, I suppose, that you may use it in the same way yourselves.

And now, allow me to inquire, what was your object, and what apology have you to offer for this omission? You do not and dare not meet the question upon these two objections. You cannot repeal the Act of Assembly. You do not feel prepared to overrule, in terms, the decisions which your predecessors have made. You endeavor, however, to escape from the effect of both, by the twice-repeated, and duly emphasized suggestion that the Relator does not want a *judgment*. You have not ventured to explain to the people the mystery that lies under that cabalistic word. You did not care to bring the act and your decisions into view, and then encounter the risk of presenting the argument on which you have ventured to nullify them both. You feared—and justly, too—that they would not appreciate the Philadelphia distinction between wanting a *judgment* and wanting only the *money*. You knew that the masculine good sense of the people of this State, would laugh to scorn—as did the whole Pittsburgh Bar—the miserable juggle, which was only worthy of the casuistry of a Bellarmine.

Let me examine, then, the effect of your argument in the light of the statute, and authorities, which you have so studiously overlooked. The act provides for the case of a *judgment* against a county. The *authorities* declared that a mandamus could not issue without a *judgment*, and that the judgment must be obtained in the usual way. To obtain that, the suit must be against the *County*, and not against the *Commissioners*. The proceeding here is against the Commissioners. So it was, too, in the cases where you refused to interfere, and directed the parties to establish their claims, in the first place, against the *County*. The argument now is that the *Commissioners* are required by the Act which authorized the subscription, "to *provide* for the payment of the moneys, and the interest, as in other cases of loans to the county," and that this is a *duty* which an action at law cannot enforce.

It is not true, however, that the Act contains any such provision for the case presented by the Relator, although it is *assumed* by you throughout, without the least apparent regard to its actual provisions. The Commissioners were authorized either to "borrow the money" upon their Bonds, or hand them over to the Company in payment of the subscription; and it was only in the *former* case, or "for the moneys *so borrowed*," that they were thus authorized or required to *provide*. The Bonds were handed over to the Company, *without borrowing any money on them at all*. Had it been otherwise, however, that provision could make no difference. The obligation and duty would have been precisely the same without it, and the remedy the same as in all other cases of loans. It is by force of this special provision, however, which does not apply to the case at all, and which does not, moreover, vary the duties of the Commissioners, even if it did, that you have undertaken to distinguish this claim with marks of such special favor as to exert in its behalf an extraordinary power, which you would not venture to apply to ordinary cases.

Supposing, however, that there had been an express provision for the particular case, and the duty prescribed were a mere ministerial one, it was, at the most, to make provision for the payment of a *debt*. It is idle to pretend that the object sought here was any other than this. The obligation to *provide* could not, however, arise, except upon the footing of a debt ascertained, or admitted by the County. The Mandamus itself cannot issue in any case, except upon the basis of a title which is clear and undisputed. If, therefore, the application to the Court in any of the cases already passed upon had been in terms to direct only a *levy* of the money under the express provisions

of the law, it must have been equally disallowed, upon objection made. It was quite as important, on principle, that a *judgment* should precede the Mandamus in one case, as in the other, and if there be any warrant for the intervention of the Court in the special authority to *provide*, it could take place even then, only after the dispute was settled. It is idle, therefore, and worse than idle, to attempt to rest this case upon the empty and frivolous distinction between the demand of a *judgment*, and the performance of a ministerial *duty to levy the money*, which amounts to a substantial *execution*, and which nothing short of an antecedent *judgment*, could ever have warranted, even supposing it to be no more than you pretend. To attempt the levy in this way betrays an open and palpable disregard of the whole spirit of the Act of Assembly, as well as the repeated decisions which have been already cited—so flagrant, I think, that you must excuse me for doubting whether you have been able to satisfy any professional mind that there was a convert amongst you even to your own argument.

Having thus shown, as I think upon authority and reasons, which you have studiously ignored, that it is “abundantly apparent”—to use your own phraseology—that the case presented by the Relator was anything but “a fit one for a Mandamus,” and that, if it were even proper at any time, the distinction attempted by you between a demand for *judgment*, and for the performance of the *duty* of making *provision* only, would make your case no better, I now proceed to examine your reasons for holding the Return of the Commissioners to be defective.

Your first remark “on looking into the Return” is that there is no denial of the *execution or of the delivery* of the Bonds in question, and so far, therefore, as “*execution and delivery*” can bind the county, she is unquestionably bound. This is all true, although it might have been, perhaps, expected that a Bench of Learned Judges, when about to venture upon a task of verbal criticism, should speak with some little precision themselves. To say, as you do on two or three several occasions, and with the fullest emphasis, that a Bond is not merely *executed*, but actually *delivered* will be considered as something of a *pleonasm*, by the unlearned, when they are informed that the *sealing and delivery* are the *execution*, and that the term, of course, always imports both of them.

Your next observation is that a reasonable degree of certainty, which you declare to mean “that which upon a fair and reasonable construction may be called certain, without recurring to possible facts that do not appear,” is always required, and that every allegation must be “direct and unqualified, and stated,

not inferentially or argumentatively, but with certainty and plainness." And you think that under the application of this test "it will be found upon analysis, that the Return made here is defective in many particulars."

I shall not quarrel with your rules, although it must be obvious to every tolerable lawyer, that since the statute has made the Return traversable, the reason which required so high a degree of certainty has ceased to exist, and with it, of course, the whole stringency of the rule itself. I will admit, if you choose, that they are well enough, if there had been any case before you to which they could be applied. I desire no more than the privilege of following you in your "analysis" and demonstrating, as I think I can, that it was not the *words*, but the *substance*, that created the difficulty, and that no manner of pleading could have been made to suit you.

The first plea, as you are pleased to call it, was that the Grand Jury did not recommend a subscription of any given amount—that if any valid subscription was made, a single Bond was issued therefor in the sum of \$300,000,—and that the several Bonds recited in the writ, *if issued at all*, were issued without authority of law, and not in payment of the supposed subscription of \$300,000.

The first objection made by you to this plea is, that it is *irrelevant*, for the reason that the Grand Jury was not *required* to designate the amount. This, of course, is no question of merely formal *pleading*, but of the construction of the Act of Assembly only, which you undertake to settle by very adroitly begging the question in dispute. The Act authorizes the Commissioners to subscribe "*an amount* not exceeding ten thousand shares, on the recommendation of one Grand Jury." It is admitted that the Jury fixed no sum, and, this you say, is no objection, *because* the law did not impose that duty on them, as it did expressly in the Mercer county case, which was referred to in the argument; but only required "their *approbation* of the subscription *contemplated* by the Act." You assume, as a matter of course, that the law did not impose that duty, and assign no other reason than the "*approbation*" and *contemplation*, which have been just recited. If this was your reason, allow me to say that you are greatly mistaken. The Act, itself, would have informed you, if you had chosen to take its language, instead of substituting your own, and, thereby altering the law, that the Grand Jury were to take the *initiative*, and that their duty was not to *approve*, but to *recommend*. But this is not all. If it was their function only to *approve* "the subscription *contemplated* by the Act," you have failed to advise us what the *amount* of that

subscription was. The Act authorized the subscription of "an amount" not exceeding a given sum, "on the *recommendation* of one Grand Jury." It was to be a *specific* sum on *recommendation*. What sort of *recommendation* is that which names no sum at all? What is the reasonable construction then? What would any unlearned man—what would any *lawyer*, who looked to the extraordinary nature of the power and the importance to the security of the citizen of confining this discretion to the Grand Jury alone—say to this? What has not your own Court already said in the Mercer County case upon this very point? The Act there contained the same language precisely, as in the present case—although it is admitted to have been a little fuller, though without any substantial difference. There was not a solitary reason, however, assigned for the construction there given, which does not apply equally here. And what is the answer which you now make? Nothing but that the law does not impose the duty, *because it does not impose the duty!* and that, too, backed by your own substitution of the word *approve* for "*recommend*." Do you expect to secure the public confidence by such logic as this? Other men are required to give reasons for the faith that is in them. Lawyers would fail in business if they could not. It is sometimes the privilege of Judges to pronounce oracularly and conclusively, without any reason at all, and even to silence those whom they would not be able to answer.

You say further, in reply to the objection, that the Bonds sued on were not issued in *payment* of the subscription, but by way of *substitution* only, that "if duplicate securities were *agreed on* between the parties, and made, this would not impair the obligation of either of these securities." Allow me to say again that you talk loosely for critics. Who spoke of *duplicate* securities? The defendants had said nothing about them. The securities referred to were not *duplicates*, and I would not do your understandings the injustice of supposing that you do not know, what any merchant could have told you. They were not even outstanding at the same time. It was a case of *substitution*, by officers enjoying only a limited power, of one security for another, after their powers had been duly exercised, and were, of course, exhausted. It is no answer now, however ingenious it may be, to *misname* the transaction, and thus evade a question of the highest importance, which was worthy of the gravest argument, and was not to be disposed of in such a way as this.

You say, however, that if the Commissioners intended to tender an issue on the question of authority, they should have met it by a direct denial, and not *hypothetically*, as you suppose

them to have done, merely because they say—with no more than the usual precaution—that, *if issued at all*, it was without authority of law, and not in payment of the supposed subscription. You add, moreover, that there is no fact charged here so as to be capable of investigation on an issue. You object that this is only charging them to be unlawful, *if they were issued*, which you declare to be a mode of pleading much below the rule of certainty which the law requires; and for these, in addition to the reasons already suggested, you adjudge the plea to be insufficient!

You are hard to please—fastidious without being consistent. You find nothing to disturb you in a *suggestion* and a *writ*, which were both confessedly defective, and that too, in matter of *substance*. You are lax to a fault, when the errors of the Relator are in question. You do not balk at a hypothetical *demurrer*, of your own imagining. One would suppose that a hypothetical *plea* was at least as good, even though it was not of your own making. When you come to it, however, you stiffen at once into all the rigors of formalism, as though the chill of an Arctic night had settled down upon you. Forgetting, as you do, in your anxiety to find fault, or not knowing perhaps, from ignorance of the rules of pleading, that the door to such inquiries had been absolutely closed by yourself, you light a candle, like the woman in the parable, who had lost a penny, and sweep the house, and peer diligently into every nook and corner, until you think you have found it, and then exclaim, “rejoice with me!” You find nothing right. There is nothing precise enough to suit your tastes. The idea of a *doubt* in regard to the issue of the Bonds, is unpardonable. The denial that they were issued by authority, or in payment of the subscription, is *no* denial at all! There is nothing to try. There is nothing which you can see under the disastrous twilight, through which the forms of voiceless thought are flitting, like disembodied phantoms through the Halls of Erebus. The deepening gloom oppresses you. There is a dread *uncertainty* which shakes your nerves. The plea is much below the grade of certainty which the law requires!

All this is passing strange—so strange that it would have been incredible if our own eyes had not seen it—so amazing, that one scarcely knows whether to laugh at its absurdity and affectation, or be indignant at the ignorance which it displays, and the injustice which it inflicts. There is nothing like it in the jurisprudence of this, or any other State in America. It has never been the practice of your Court to entertain objections so frivolous. To hunt them out yourselves, of your own motion—without a prompter, and upon a general demurrer—and to rule an

important case upon them, and that, too, for the purpose of depriving the people of the benefit of the Jury trial, is something that transcends everything that has come down to us in the way of example in England, since the era of the Stuarts. It was not necessary to add to it by endeavoring to shift the odium upon the shoulders of a stubborn advocate, and thus endeavoring to cripple his power of effective resistance to tyranny. There is no lawyer at the Bar who would have thought it worth while to defend a case before you on such grounds as these. You would have scouted the defence, and perhaps rebuked the counsel who made it. Your invariable policy has been to discourage writs of Error upon exceptions that are merely formal. The largest part by far of all your decisions will be found, if I mistake not, to turn on that principle. You have carried it so far that special pleading has ceased to be a science in this State. The severity of the ancient logic has disappeared under the levelling process which has overthrown the distinction between the learned and the ignorant, and now, by a retribution which is poetically just, its very rules have been forgotten by yourselves, and the fruits of its discipline have almost ceased to grace the opinions of the Courts. If you had not forgotten these rules, you could not have blundered into a violation of Magna Charta, by mistaking the application of them. If you had imbibed their spirit, which is the spirit of true liberty, I am very sure that the style and temper of your opinion, as well as its logic, would have been entirely different.

If you have already, however, furnished occasion for surprise to professional men, there is matter here which must exalt that feeling into absolute amazement. Your objection is to the *hypothetical* case of the execution of the Bonds. That, however, was not the question. No issue was tendered on that point, because none was intended. If the fact was put hypothetically, it was no more than a *protestation*, where the defendants were ignorant, and all that could be said of it, would have been that it was not good as a plea of *non est factum*. It was no more indeed than is always implied, where such a plea is followed by that of *payment*, or any other in *confession* and *avoidance*. The Commissioners did, however, tender an issue upon the points of *authority* and *payment*, which were the only questions, by a denial as direct and explicit, as you or anybody else could make it, and it is passing strange that you should not have been able to see it. If you could not, that was perhaps your misfortune, but certainly not the fault of the pleader. He did not educate you, and is not of course responsible for your infirmities.

If this plea had, however, been defective in the particular to

which you refer—which has been doubted in England, and is, I am confident, supported by no authority here—there is another answer, already hinted at, which ought to overwhelm you. The unlearned will think it strange that upon a writ of *Mandamus* issued to the Commissioners of a county, and in a State where the niceties of special pleading have been always disregarded, you should have thrown yourselves upon the merest *quibble* in a case of such magnitude as this, as a reason for depriving a whole people of their Constitutional right of trial by Jury. But what will they say when they are informed that the objection upon which you have overruled this, and other important pleas, and entered a judgment against them, even if well founded, was merely a *formal* one which was *amendable*, if demurred to *specially*, and was absolutely *waived* and *cured* by *general* demurrer? And yet the law is so beyond all controversy, and you cannot, and dare not deny it. There is no lawyer in the United States who would venture to assert the contrary. If you did not know it yourselves, what is to be thought of you, who speak so authoritatively, as pleaders or Judges? If you did, how are you to answer to the people for the unauthorized judgment which you have pronounced, and how is it to be treated by them?

After such an exhibition as this, however, you proceed very coolly to remark that “the second plea is still worse, because totally irrelevant.” With your notions of pleading, as just exposed, it would be strange, indeed, if that or any other should be considered a good one. If it is worse, however, than your previous argument, it will be no easy matter to defend it.

The plea is that other Bonds to the amount of \$200,000 were subsequently issued upon a second subscription, without any evidence in the books of the county to show the subscription, or the issue, or the number and denomination of the Bonds.

You ask the question, very innocently, what this plea was intended to answer—and then proceed to remark that “the Relator says nothing about this issue, and pretends to hold none of these Bonds, and that it is, of course, irrelevant and impertinent.”

As the case then stood, the plea was not claimed to be of any consequence. It furnishes occasion, however, to refer again to a curious proceeding in this cause, as well as to show how imperfectly the state of the pleadings seems to have been understood by yourselves.

The Relator had altogether omitted, in his suggestion, to individuate the subscription under which he claimed. He alleged, merely, that the Commissioners had subscribed an amount not exceeding 10,000 shares (\$500,000). It was well understood

that there were two subscriptions. The *second* was considered to be void at all events, and it was to meet any claim upon that subscription, and to compel the Relator to particularize, that this plea was obviously interposed. It produced the desired effect. The Relator asked leave to amend, by specifying the *first* subscription, and he was allowed to do so in that, and one other material point, *without oath*, notwithstanding the unanswerable objection, that a writ of mandamus could stand on no other foundation than the oath of the party. It was a new feature, therefore, in the present cause, and only one of many which are equally remarkable, that this extreme, and extraordinary remedy was granted—just as an important portion of the defence was “*explained*” away—upon the merely *verbal suggestion* of the Relator’s counsel! If you had adverted to the amendment allowed by yourselves, you would have understood the plea, and might have spared the remark that the Relator says nothing about this issue, and does not claim under it, as well as the somewhat ill-natured blunder that it was either “irrelevant or impertinent.” It was not so considered by the Relator’s counsel, when it drove him to his amendment. If it became so afterward, it was only because you allowed to him what you have denied to us—the privilege of amending at his pleasure. You refused to quash his writ for errors of *substance*. You pronounced an *absolute* judgment against the people, for alleged errors of *form*, which are developed only by the microscope.

The next point you examine is that relating to the alleged violation of the express condition of the Act of Assembly that the Bonds should not be sold below par. This, you think, is the “most important portion of the return,” and here you are graciously pleased to say that “matters are pleaded with *tolerable* certainty, which suggest questions of the *grandest* import.” For this mark of condescension, even small as it is, we are all bound to be duly thankful, for the reason that it brings you into the field in the way of *argument*, upon at least one question in the cause, and enables us to form a *tolerable* conjecture as to the way in which you would have acquitted yourselves in regard to the residue.

Instead, however, of coming up to this “grand” question directly and boldly, you sit down before it, like a cunning engineer, wasting a whole column of a newspaper upon Acts of Assembly, resolutions of Commissioners, Legislative powers, County organizations, and pious homilies on repudiation, all of which are entirely irrelevant, and all seemingly intended for the double purpose of apologizing for a conclusion which is foreshadowed, and yet felt not to be exactly right, and of frightening

the garrison into terms of capitulation by the blended terrors of divine and human law. You come up to the walls at last, however, with this declaration :

"The condition prescribed by the Act of 1853 was a rule to the Railroad Company. *They* were not to dispose of the County bonds at less than par, and the County might have restrained them by injunction from doing so, as several counties have lately done. But she stood by in silence and suffered them to be disposed of without notice to the public, remonstrance to the Company, or appeal to the Courts.

"Under these circumstances, the question arises, is she bound to provide for the interest? We unhesitatingly answer, Yes, she is."

This end is curt and positive. It assumes that the county stood by in silence, and suffered them to be disposed of without notice to the public, remonstrance to the Company, or appeal to the Courts. The answer is an easy one. Out of your own mouths shall it be given. You say, yourselves, in a subsequent paragraph, that "every holder and receiver *had notice* of the condition, upon the very face of the Bonds, and all brokers and their customers were bound by it." It is clear, therefore, upon your own admission, that they were not disposed of *without notice*. If they were not, however, then it was *impossible* for the county to have done the thing which you suppose, or in other words, to have allowed them to be disposed of without notice.

Perhaps, however, you will say that it was not the want of *notice*, which you intended, but the fact that the county "stood by in silence," *with* notice. If this was your meaning, you should have said it, even though it weakened your case, and ought to have met the point, as you very unsuccessfully undertake to do afterwards, by your very original and curious illustration of the case of the father, who loans his son a paper not negotiable, but stipulating on the face of it that it should not be sold below par, and then stands by, and sees him selling it at a discount, without objection. If you had, however, where is the evidence of the fact which you assert? How do you know that the county was aware of it? Is it by the same means through which you learned that the moneys sworn to have been corruptly paid to the Commissioners, were expended in clerical services? Has the Relator's counsel told you so? How was the county to be advised, and who advised it? How could it stand by? Who is the County? If it be the Commissioners, it is not even asserted that they knew it. But it is not the Commissioners. The county is a local *government*—a purely artificial being. It represents a community of nearly 200,000 souls. How is it to be affected by *laches*? No time will bar its right even to a highway,

and how is the mere *silence* of its Commissioners, even though they had knowledge—of which there is no evidence and no presumption here—to affect the people? Why is it that the *people* are to be concluded by *ignorance*, while even *notice* is not allowed to affect a *Bondholder*? Is it fair or just? Is it either Law or Equity that the people shall be concluded thus? Where do you find authority for any such principle? You cannot show it. Even in the case put by you, of the father standing by, and allowing the son to sell his note at a discount, there is no principle of equity upon which mere *silence* would estop him. You think he is a bold lawyer who would deny it. I think he is a bolder one who would affirm it. Where was it ever held that the obligor in a bond was bound to follow it in the hands of the holder, and to give notice of a condition, which was written on its face? Where has it been ever held that he was bound to give notice even of a secret equity? *The law is precisely the other way, and you know it, or ought to know it.* It imposes no duty on the obligor, in either of these cases. He is under no obligation to ask for an injunction. The rule is *caveat emptor*. It is the business of the buyer to look out. The position of the debtor is a purely defensive one. Remonstrance to the Company, if he knew it, would not help him, and it is perfectly clear that without notice in advance, even an injunction itself, if he is to be put to the expense of it, could be of no possible service whatever. It is clear, therefore, as light, that under the actual circumstances which were before you, to the question whether the county is bound to provide for the interest, you were bound on principle and authority which are above dispute, and by every obligation which can affect the conscience of a Judge, to answer—not as you have answered, imperiously and unhesitatingly, “Yes! she is,” but solemnly, and unhesitatingly “No! she is not.” That is the language of the *law*. It may not be yours, but you must speak its voice, and not your own. You are but its exponent and not its maker. You are held in its chains. It is your master as well as ours. You cannot change it, for that would make you the Law giver. The Common Law is an essential part of our liberties. If you can make it proclaim your will, we are no longer free. If you can tax us to pay these Bonds, not because we owe them, but because you have mistakenly endorsed them, and think, therefore, that you are bound to see them paid—and can take away the right of trial by Jury, upon the most frivolous of pretences, and in utter disregard of all principle and authority, in order to facilitate the collection, and obviate the difficulties of a recovery, there is nothing to be added to your powers. Our lives and liberties are protected only by

the same bulwarks which surround our freeholds. If you can seize the one, you may as readily make yourselves masters of the other.

Upon the answer thus made, however, you proceed at once to declare that the Commissioners are bound to do what the Relator asks, and to express the hope that they will obey your mandate, without even waiting to inquire into the other and very serious grounds of defence, which remained to be examined. It looks as though you had made up your minds in advance, to make us pay at any rate—as the Bondholders confidently expected you to do—and were impatient to tell us so. What was the hurry? Why not dispose of the other objections in the first place? With such precipitancy, however, we might perhaps, as well have surrendered at this point. It could scarcely be expected after this, that you would find any serious obstacle in the residue.

There was something, however, yet to be said, in order to reconcile the people to this great departure from the doctrines which had been previously settled. You are constrained to admit that if the allegations in this plea are “susceptible of proof”—which you had just however, denied us the privilege of showing—they would constitute “a *possible* ground for an *equitable* defalcation.” You speak with a caution which is truly admirable. When it is a question of our *obligations*, you bluster and threaten, and talk like a master. When of our *rights*, your voice subsides into a gentle whisper, as though you feared that the winds of Heaven might carry it to the ears of the Bondholders. There is no mistaking you, when you are teaching us our duties. They are all of *perfect* obligation, and the power of the Court is at hand to enforce them. When you come to our rights, you deal in enigmas. You are all caution and reserve. Your topics of consolation are “*possible* grounds of equity,” and “subjects for very serious *consideration*,” and nothing more. Your language indicates, I think, that while you wished to reconcile us to the infliction, you did not intend to commit yourselves to anything that was likely to relieve us. It has been so read by the Bondholders and their organs, and they treat it accordingly as intended, for no other purpose, than as “a tub thrown out to the whale.” If they have misunderstood you, it is not surprising. Your readers here have given it the same construction.

You admit that the provision, that the bonds should not be sold below par, was a wise one, and that *upon their very face*, “the County pledged her faith *on that condition and no other*.” You then put the case of the father above quoted—which, as already shown, is not our case—declaring in the first place, that he would be liable for the *whole* principal and interest, and then

inquire very strangely, whether, if he went into equity, showing the violation of the condition, and offering to pay, or renew the paper for the amount actually received, a Chancellor would not *hear* him! And you then, suggest as "*a subject for very serious consideration*," whether the County would not have the *same* rights in equity, if *she can find the Bondholders*,—as you think she can, by catching them at the receipt of custom, as they come up for the payment of their interest!

What an exhibition is here! Allow me to say that the stream of your elocution runs muddy, and shows you to little advantage, as it frets and eddies, when it impinges against such obstacles as these. You think the father would be liable in equity for the *whole*, and then ask with great simplicity whether equity would not relieve him from a *part*! You suggest it as "*a subject for very serious consideration*," too, whether *a county* would not have the same rights as an *individual*! You are careful not to admit that she has, for the reason, perhaps, that it might involve an unpleasant reflection upon your opinion in the present case, wherein you have administered a law so different from that which has always been recognized, as between individuals. You think too, with equal simplicity, that we may angle for the Bondholders by baiting with the interest, and catching them through a coupon, which is payable to bearer and passes by delivery, forgetting that while we are "bobbing for a whale," we are likely to catch only a minnow. The whole paragraph shows an apparent and a painful struggle to pull up your anchor, and get away from a principle, which frowns destruction upon the cause of the Bondholders. It would be hard to find one anywhere which involves so much awkwardness and absurdity. It is, however, a perfectly natural result of such a struggle as this question has put you upon. You are drifting on a lee shore, and it behooves you, like an earlier commander of some note, to ply both "oar and sail," in order to escape the dangers which threaten you.

Your reason for considering the provision in question a wise one, is that it was a becoming expression of confidence in the faith and ability of the county, and to repress those scandalous speculations of stock jobbers, which are the disgrace of our generation, and have ruined many a meritorious enterprise. The reason is a new one, apparently to meet a new view of the question. The reason assigned by you in the Mercer county case, which was the sensible and the true one, but is now, of course, exploded with the case itself, was that a county might be induced to contribute a given sum upon the assurance that it would complete the road, if honestly realized from the Bonds, whereas the

sale at a ruinous sacrifice, might leave the project unfinished, and result in total loss. In such case, the object would be defeated, and no equity would, of course, arise to entitle the purchaser to be repaid even the amount of his advances. This was obviously the doctrine of that case, and the only reason assigned for making no decree against the purchasers, was, that they were not made parties to the cause. The case of this county is precisely the same. If these Bonds had been sold at their par value, the road would have been completed. As it is, it is unfinished and entirely worthless.

But I come now to a point in this connection, to which you must allow me to request your especial attention, as well as that of the whole profession and people of this State. You play the *role* of critics. You profess to be practiced in the high mysteries of special pleading. You are so precise and prudish, and so severely punctilious, that nothing is certain enough, and nothing can be made to suit you. You venture to speak disparagingly of the performances of others, whose experience is larger, and whose professional rank is, at least, equal to your own, as though they were tyros in a branch of learning, in which you profess to be adepts. You presume on your merely official *status* to indulge in reflections which did not become you, and which you would have been slow to utter, and slower to vindicate, if you had been standing within the range even of an impromptu reply. I shall now test your own ability as pleaders, by an example, which will enable the public to judge of the value of your strictures, and may, perhaps, prove not unprofitable to yourselves.

Allow me then, to whisper as gently as possible in your ears, that all your cautious suggestions, in regard to *possible* equities, on which you have turned the people of this county out of a Court of Law, and recommended a Court of conscience,—with yourselves, of course, as Chancellors—are founded on the grossest and most inexcusable blunder, that was, perhaps, ever perpetrated by a Bench of Judges, claiming to be learned in the law. You admit that the County pledged her faith “on the condition referred to, and no other—that this was the contract, and nothing else can be made of it.” This was so plain that it could not be successfully denied. In so admitting, however, you condemn your own judgment, dash your whole case to the ground, and shiver it into fragments. If you had been even *tolcrably* instructed *pleaders*, you would have seen at once, that it was a necessary consequence of this admission, that the defence set up *was not an equitable, but a legal one!* The condition was, you confess, a part of the contract. In a suit at law upon the Bond,

it would have been, in strictness, the duty of the plaintiff, to set it out. If he did, the defendants might have pleaded the breach. If he did not, they might either have taken advantage of the *variance*, or cravedoyer of the Bond, spread its condition upon the Record, and pleaded it in bar to the action. These things they might have done, in any Court of mere law, in this country or in England, and the Bond itself, must have fallen dead on that plea—unless the *plaintiff himself*, were allowed to set up the supposed equitable estoppel, *in reply*. This, however, it is clear, that he could not do in a Court of *mere* law. If there was any thing in the answer, he would be turned round, *himself*, to equity for relief. And thus, it will be seen at once, by every lawyer, who is at all familiar with the rules of pleading, that *the relations of the parties were precisely the converse of what you have supposed them to be!* If the father was bound, in the case put by you, *it was in equity only*—upon *equitable* considerations, and in the very face of the contract itself. If the county is bound, as supposed by you, it is only in the same manner—not upon her *contract*, but upon a *silence*, which has estopped her from taking advantage of it. It is not the people, then, thank God, who are to go on bended knees, to beg for equity in a Philadelphia Court, where there is no jury of the vicinage, and no mercy in reserve for them, *but the Bondholders themselves!* The people have, happily, a complete defence *at law*, which can only be met—if it can be met at all—by an equitable estoppel *as against them*, and you are in the position not merely of having denied to them—what never before was refused in a Pennsylvania Court—the privilege of setting up a defence which you *supposed* to be equitable—but of having shut out *a strictly legal* defence, in favor of a party who was prosecuting a writ of mandamus—which lies only on a *legal* right—upon a strictly equitable claim! What do you think of this, and what must you now think of yourselves, when thus taken in the pedagogic act of chastising an unlearned pleader, with the eyes of the whole profession and people upon you? Your *possible equity* turns out to be a *legal right*, and the favored suitor, for whose benefit we were ejected so summarily from a Court of law, no more than an *equitable* claimant, and a lawless squatter, without any authority to be there at all! Is it not probable that a little less haste, and a fuller and a fairer hearing, would have enabled the defendant's counsel to instruct you in all these things, and thus saved you from the awkward blunder, and the still more awkward and unpleasant exposure, into which your unprompted zeal has hurried you. It will be now expected, of course, that you will avail yourselves of

"the very first hour of your *next* term" to advise the people of this county, that it will not be necessary for them to go into equity, and that you have reserved that privilege for the *Bondholders*.

But supposing the defence to be—as you have erroneously taken it—an *equitable* one, why is it that you have refused to allow it to be set up at *law*? Is there any case in our books, wherein, under our mixed system of jurisprudence, where law and equity are administered in the same tribunal, such a right has ever been denied? If there be, I am not aware of it. Why, then, should such a rule be set up here? Why send the county of Allegheny over all creation to search out the holders of her securities? Is there one law for the Bondholders, and a different one for other people? Or is it because our great Constitutional bulwark of the trial by Jury will then be lost to us? I will not, in all charity, suppose that such was your *object*, because it would involve a very serious attempt upon the liberties of the people. It is not to be doubted, however, that the purpose of the Bondholders themselves, in going before you, was to avoid that tribunal, and to deprive us of that right. And it is no more open to question that they have accomplished their object in the results at which you have arrived. It will not, however, serve them. You have exceeded your power in this particular, and *must go back*. You cannot stand where you are.

But you say further in this connection, in answer to the objection, that if you compel the payment of interest, the *principal* must follow, that so long as the Commissioners leave the body of the securities outstanding and unquestioned, by declining to proceed in Equity, they are incapable of making defence upon the *incidents*, and that even *equity* should not deal with such a defence, where the suit was only for interest.

The question is your own. I propose to deal only with the answer. And this rests, of course, upon the mistaken hypothesis that the defence was an *equitable* one. If it were even so, however, where has it been ever decided that the invalidity of a bond itself, was not a good defence against the payment of the interest? The latter is admitted to be but the *incident*. It flows from the Bond. If the fountain is either exhausted or corrupt, what is to become of the stream itself? Is it to flow, and flow on altogether without taint? That is the effect of your argument. And why is it that a Pennsylvania Court may not inquire whether there is any debt, when a claim is set up for the payment of the interest? This is too plain a question for a lawyer. The reason of a layman would revolt at the absurdity. You

have not, however, condescended to show us, why it is that you suppose the law to be as you declare it. You offer no authority to support you. That, however, seems to make no difference with you. You have an answer of the same kind for every possible objection. The "*sic volo, sic jubeo; stat pro ratione voluntas*," is expected to satisfy us.

You next proceed to the *fourth* plea, or point of defence, in which the Commissioners say, that whether the Relator is a *bonafide* holder of any of said Bonds, they are *not advised*, and do *therefore* altogether *deny*, and insist that he may be held to the proof thereof.

This you describe as a sort of conjectural interrogatory, in which the title is not exactly denied or admitted, and upon this you say that you cannot put the Relator to the proof, on so uncertain and equivocal a plea, *because he alleges positively that he is the owner*, and until it is positively denied, he cannot be required to prove his title.

I know nothing in your extraordinary opinion that is more extraordinary than this. The defendants were but Commissioners, and trustees for the public. They had never even seen the Bonds recited in the writ. It was impossible for them, of course, to know or say whether the Relator was a bonafide holder or not. They could not swear that he was not, but they could declare their ignorance and deny thereon, and put the other party to the proof, in accordance with everyday practice in Courts of Equity. To ask him for the proof was no more than is expected of every suitor who prosecutes a claim, unless there be a rule of Court—as there was not here, and never is in cases of defendants, who are standing in a merely representative capacity—to excuse him, in the absence of any denial on oath. There is nothing *conjectural*, or *interrogative*, or *uncertain*, or *equivocal* in the plea. It was a flat denial, with only the necessary salve to the consciences of the Commissioners, conveyed in the assertion of their ignorance. Reason and justice would seem to require no more. The objections made are clearly without foundation in reason, as any man may see. If there was any authority to support them, you would of course have shown it. You decide, however, in the usual oracular way, that because the Relator *has alleged positively that he is the owner*, you are bound to take his word for it. This is like the argument of the Justice, that the Plaintiff would not have sued, or sworn to the existence of a debt, if it had not been actually owing to him. It may be, however, that he is not the owner, and a thousand men may sue and recover in the same way, without any title at all. All that is necessary is to swear that they are Bondholders. It

will be impossible, of course, for any man to deny it in any other way, and the Courts must take off their hats to them, and pass them without question. It is sufficient, however, to say in regard to this plea, which has been thus flippantly disposed of, that if all that was said of it were true, it was the subject of special exception only, and then amendable, and was cured in every respect by a general demurrer. And to this there can be no answer.

The fifth plea avers that the debt supposed to be owing, is altogether disputed and denied, and that although there is a sufficient, adequate and exclusive remedy in the courts of the county, no suit has been instituted, and no judgment recovered therefor.

This is said by you to be *argumentative*, for the reason that the execution of the Bonds is not denied. It would be well for the Bondholders, if they could say as much for your opinion. I shall not stop, however, to inquire whether it is argumentative or not. It is too small a business for an occasion like the present. It is sufficient for my purpose that if it be so, it is cured, as in the former cases, by a general demurrer, and could make no sort of difference in the decision of the cause.

The next paragraph in the return, which involves a plea of the pendency of sundry actions, instituted by other holders of the Bonds recited in the writ, is entirely overlooked by you. It was a question of *lis pendens* in a case, wherein you were asked to make, and did undertake to make a decree in favor of all of them. If you had jurisdiction for such a purpose, in a proceeding at law, where they were not before you—as you have in the end asserted—it was undoubtedly an answer, so far as regarded those who had thus sued. Why you have not made it the subject of remark is left only to conjecture. It was your duty, of course, to dispose of it, before entering a judgment. Your extreme precipitation would not, perhaps, allow you to bestow a thought upon it.

The *sixth* plea is that which alleges that the recommendation and subscription were procured by means of fraudulent and corrupt practices on the part of the Company, and by the payment of money in consideration thereof—the same plea particularizing the case of a given payment made to one of the Commissioners by name.

Your answer to this is so remarkable as to entitle it to be repeated at length. Here it is:

“6th. The sixth plea alleges the corruption of the grand jury and the County Commissioners in making the alleged subscription, but in terms quite too general and indefinite for so grave a charge.

This plea was not pressed in the argument, but we were happy to hear the counsel on the part of the Relator explain, without contradiction, that the sums of money referred to in this plea were paid for clerical services, and other necessary expenses in preparing County bonds for issue—not only those in question here, but others also.”

It is not denied by you in terms, that this plea contains the elements of a good defence. The facts stated are alleged, however, to be “too general and indefinite for so grave a charge.” It is the easiest thing in the world to indulge in a general remark like this. You have not condescended, however, to state why you think them so, and would be puzzled to assign any reason for it. Any man who reads them will see that they are as direct and precise—as pointed and specific—to the very individual case of a payment made to a Commissioner by name, as it was possible for the ingenuity of either lawyer or Judge to make them. Less than this would have been sufficient in an affidavit of defence, to entitle the party to a trial in any case, even the smallest. If it was not so here, it amounts to a denial of justice in a cause, which was the greatest, by far, that ever came before you. Why it was not, is a mystery, which you, who profess to understand the rules of pleading, and are expected to know the uses of language, may reasonably be expected to explain.

It is apparent, however, that you are not satisfied with this answer yourselves, and you proceed accordingly to fortify it by other considerations of a most unusual and extraordinary character.

The *first* of these is that “it was not pressed in the argument,” and the inference intended, of course, is, that it was abandoned. You know that this inference is unauthorized. What difference did it make to you whether it was pressed or not? The plea was *matter of record*. It stands there yet. You had nothing to do with the *fact*. That was confessed by the demurrer, and your business was only with the *law*. Whether it was formally argued or not, was of no consequence. If it was not, could you not have found a reason in your own rules, which limit the speeches of counsel—*everywhere except in Philadelphia*—to an hour or two, and your own failure to take the hint, when the necessity of an extension was indicated, as I am assured it was? Or was there not a better one in the fact, that no elaboration could add to the force of such a defence, which spoke sufficiently for itself?

The *second* is, that you “were happy to hear the counsel for the Relator explain without contradiction, that the sums of money referred to, were paid for clerical services,” &c. This

is still more extraordinary than the other. It is no more or less than a declaration that the mere explanation of a Philadelphia lawyer, who was entirely ignorant of the facts, was allowed to outweigh not only the confession involved in his own constructive demurrer, that the subscription was procured fraudulently and corruptly, by the payment of money in consideration thereof—but even the positive oaths of the County Commissioners, themselves—merely because it had been allowed to pass without contradiction!! This is giving a new efficacy to the explanations of counsel. Who is there amongst the profession, that would have supposed for a moment that the explanation of a concluding counsel was of any consequence, or called for any contradiction? All that could have been said by him—a mere stranger—speaking only as he was directed—was but the argument of the advocate—irrelevant to the issue, and founded on no personal knowledge whatever. If it had been otherwise, however, it has not been the usage to treat the explanations of any lawyer, however respectable, as evidence in the cause. If it were, the last speech would always be an unanswerable, and, of course, a fatal one. Mr. Meredith was entitled to that advantage, if it was one. If the counsel of the people had contradicted him in an assertion which was purely gratuitous, and entitled to no weight whatever, it would have been set down as an act of rudeness. If he had imagined, however, that you were likely to be made happy by any explanation which the ingenuity of his antagonist could have suggested, it would, doubtless, have been the easiest thing in the world—though, perhaps, somewhat ill-natured—to have disturbed that feeling, and dissipated it in a breath. There was nothing whatever, in the argument—as every Pittsburgh lawyer will say, who heard it—that seemed to call for a reply. If it had been attempted, however, it would have been against all usage, and the interruption was not likely to have been received with any great kindness by yourselves. It is passing strange, therefore, that you should now attempt to construct an argument out of his silence, under such circumstances, to sustain the refusal of the Jury trial to the people of this county.

It is a sufficient answer, however, that this important plea, like all the others which you have overruled on merely formal grounds, was, on your own objections, unquestionably good upon a general demurrer, and that all you have said in relation to it, was of course—in your own language—“irrelevant and impertinent.”

You come next to the consideration of the Constitutional question, and this you dismiss with a reference to the late

Amendment, as a popular sanction of the doctrine of the Sharpless case, and the suggestion that large interests have been invested on the faith of that construction, and that "when the meaning of the Constitution has been once carefully considered, and judicially decided, it is to be received in that sense, and every reason is in favor of a steady adherence to the authoritative interpretation."

It was felt, doubtless, that this very summary mode of dealing with so great a question, was the only one by which the force of the objections to an erroneous construction could be successfully parried. To defend it was felt by you to be impossible. The puerile and monstrous argument on which it rests, that the Legislature may do whatever is not expressly forbidden by the people, though God and nature may have laid their interdict upon it, or do whatever is forbidden, by simply giving to the thing prohibited another name, was one which was not likely to strengthen the Court, or help your own credit by further ventilation. I may be excused, therefore, for declining now to turn a gun on a position which is only defended on the ground that it has been once taken, without regard to the question whether it was right or wrong.

I am not called upon to differ with you in regard to the question whether a construction once settled, upon the fullest consideration, is to be taken as the authoritative interpretation of the Constitution. The case here is not one of that sort, by any means. The ruling of three Judges only, is a single case, upon contradictory and irreconcilable grounds, and on principles which are destructive of public liberty, and at war with the very existence and objects of the social state, is not to be taken as a settlement of a great question like this. On such a question, no opinion of the Courts, which impinged against the natural rights and liberties of the subject, has ever been allowed to stand in England. Nor is it your custom to display such reverence for adjudications here. So far from it, that it has come to be considered, of late years, amongst professional men, that the *Stare decisis* is no security for anybody. You have not hesitated, even in a private case, by a divided Court, and upon the most unsatisfactory reasons, to reverse again and again the unanimous opinions of your predecessors. How is it, then, that such extraordinary sanctity is to be attributed to a solitary decision, so made, which absolutely threatens the destruction of the best half of this great Commonwealth, that it is to be approached with religious awe, and would be little less than profane to doubt or argue it? Is it because the purchasers of these securities have been mislead by your error? That is the idea apparently con-

veyed in the remark that large interests are resting on the faith of that construction. It does not seem to have occurred to you, that if the construction was a wrong one, there are interests infinitely larger, which are resting upon the ancient law, in the comparison with which your Bondholders are but dust in the balance. I do not believe, however, that any considerable investments have been made on the authority of the Sharpless case. A wise man would not have chosen to risk much on a decision so made, and its only effect has been to give the reins to speculation, by depressing the securities, and setting capitalists to gambling upon the chances of an adherence to that doctrine, or a return to the wholesome principles which it has overthrown. A decision unanimously made, in accordance with the general professional sentiment, and the great rights of human nature, would have kept these securities at a high price. The men who have bought on that of the Sharpless case, have invariably indemnified themselves for the risk, by securing a heavy discount, and they are the same men, whom your policy would now relieve from the whole risk, by throwing it upon the innocent victims of your differences, or your errors.

The auxiliary argument which you have borrowed from the constitutional amendment, only betrays the weakness of the position which it is invoked to support. There was no man perhaps in this State who revolted at the doctrine of the Sharpless case, that did not vote in favor of the amendment, and it is a memorable fact which you, as Democrats, ought to have been the last to forget—that the vote of your whole party was cast upon the argument of the State Central Committee, that although it was more than doubtful whether the Sharpless case had been correctly decided, it would be prudent, at all events, to make all sure by inserting the prohibition. I thank you, however, for this reference to the people. It is the first occasion on which you seem to have recognized their rights or power. You have now appealed to Cæsar, and thereby acknowledged his jurisdiction. The answer which you suppose him to have given, is at least of doubtful interpretation. To Cæsar, therefore, shall you go again, upon an issue which shall be direct and intelligible, and if he does not reverse both your judgments with an emphasis which will be unmistakable, I shall be greatly disappointed. On such a question as this, where you are warring against every instinct of the freeman, it is the most pitiable of delusions, to suppose that you can hold a position which is so demonstrably wrong. If you can, it is what no king or Court has ever yet done before you.

The result of your opinion comes next, and that is, in a

general judgment for the Relator, with an order to the Commissioners to make provision for the payment of the interest, present and prospective, not on the Relator's Bonds alone, but on the \$300,000 of certificates recited in his complaint.

This result, it will be admitted on all hands, does not fall short of the opinion by which it is ushered in. It is not merely a final judgment upon a general demurrer, for matter of mere form, which no Court ever before pronounced. It is a judgment in affirmance of a debt, which is not even known to be owing to anybody, and in favor of men who are not parties to the suit, and who are, of course, entirely unknown to you. It is a volunteer judgment in favor of parties who were then prosecuting their claims in other Courts. And it is a judgment, also, for moneys which are not yet owing, and possibly never may be. I leave out of the question the fact that it assumes the right to tax the people of this county, to the whole value of their estates, if necessary, as though they were your subjects. There is nothing that could be added to it in the way of novelty. In all these particulars, I think it may be said that the like has never yet been seen. In none of them, I think, can authority or precedent be found to support you. You have not cited any. You have not even looked for it, I suppose, because you knew that the search would be fruitless. You have not condescended to inquire into your right to pass upon what was not before you, or indeed to do any of the several things embodied in your decree. You seem to take it for granted that you have a right to do just as you please. You will be expected, however, to do all this before you can command the confidence, or secure the submission of the people. They look upon you only as a judiciary, and this as a usurpation. They can see nothing in the act which you have just done that has any of the features of a judicial proceeding. The idea of a judgment or a jurisdiction, where nobody is suing, is a novelty to them. The notion that you may bind them without a trial, and that the trial by Jury—the great palladium of their liberties—is dependent on your pleasure, is equally revolting and inadmissible. It has in their eyes, more of the aspect of a Royal Proclamation than of the proceeding of a Court, and if any attempt should be made to enforce its mandate, it will be well worthy of consideration whether the parties directing and abetting it, are not liable as something more than trespassers.

But I am not yet done with you. Your decree involved another incurable infirmity. Illogical as was your opinion, your judgment itself, was not even a legal consequence of what you had decided. In the minuteness of your research into the

structure of the Return, the general effect of your criticisms was overlooked. You forgot that by the well settled rule of law, all your objections were cured, and that, as a necessary result of your own argument, your judgment should have been in favor of the defendants, unless you were prepared to say that the facts alleged did not contain the elements of a good defence. The blunder was a natural one. The mind, like the eye, contracts under the use of the microscope. It was a standing reproach to the profession of the law at the period when suitors were turned out of Court upon a mere question of orthography. Those who are in the habit of dwelling upon small things, will soon lose the faculty of comprehensive vision, which can take in a whole field at a glance. The fly which alights upon the dial plate of a clock, may see deeply into its structure, but would be slow in acquiring a correct knowledge of the time of day.

It was hoped, however, that the exposure of this error, would induce you to retrace your steps. It was, accordingly brought to your notice, as you say, at the last hour of your session in this city. It was then very quietly suggested, that you had mistakingly and improvidently rendered a judgment in favor of the plaintiff, when, by your own showing, the law required that it should have been the other way. You were asked either to change it, or if your *hypothetical* demurrer was to be considered a special one—to enter the proper judgment, and allow the defendants to amend. The announcement took you by surprise. If you had dugged a pit it was clear you had fallen into it yourselves, and lawyers were curious to know how you were to get out. You could not deny the rule. You endeavored to meet it by the suggestion that you intended to say that there was not even a *defence* in *substance*. Your attention was then called specially to the several pleas which you had overruled on *formal* grounds, and you were asked to say, whether you were willing to be understood as deciding—as the Record would then exhibit you—that the *admitted* facts that the plaintiff was not a *bona fide* holder—that the Bonds were issued without authority of law and not in payment of the subscription—and that the subscription, itself was obtained, and the Bonds procured by fraudulent and corrupt practices, and by the payment of money to the Commissioners—were not to be taken to constitute a good defence? To this you made no answer. It was reserved for your subsequent meeting in Philadelphia to untie this knot. It was hoped that a little time and reflection would enable you to make a graceful retreat, from a position, which it was impossible for you to maintain. You had decided in a hurry. It was the charitable presumption that you had erred through inadvertence,

and that no feeling of pride would be allowed to prevent a confession of it. Those who so judged you, were doomed to disappointment. You refused to correct your error, upon grounds which I shall now examine. If your case was a bad one before, it is made so much worse, by your last utterances, that even charity itself can no longer excuse you.

You begin by proclaiming, in a somewhat ostentatious way, that "the motion made at the very *last* moment of your late term, should be disposed of in the *first* hour of your next term."

This announcement was unnecessary. The character of the opinion itself is sufficient to indicate that, like your Pittsburgh argument, there was more of hurry and impulse in its construction, than was likely to be productive of any safe or valuable results. The language used in entering the once solemn judgment of a Court has always been, "it is considered." It is the apparent boast of your tribunal—you take pains, at least, to show—that you decide *without any consideration* at all. With such ideas of judicial duty, it is not surprising that you should have ended as you began. With a little less hurry, and an argument to aid you, the chances are that you would have arrived at a different result. *Festina lente* is a good maxim for a Judge. If you had taken the *last* hour of the term, instead of the *first* one, it would have been a confession, at least, that you had come to realize the importance of the rights on which you have just now so unceremoniously passed.

The motion, you say, was too long delayed, if proper at any time. Allow me to suggest in return that there is no authority whatever for this assertion. There is no Court in Pennsylvania which does not habitually claim and exercise the right of correcting its own Records at any time within the Term at which a judgment is entered. Nay more. Your own Court has, I think, on more than one occasion, corrected a judgment improperly or improvidently entered, after the lapse of a year or more from the period of the entry. The case of *Bingham vs. Guthrie* was, if I mistake not, one of that kind, which you cannot have forgotten. It is surprising, therefore,—if anything could now surprise us—that you should now venture to hold such language in reference to a cause wherein the application was made at the same Term, and within a period of two weeks after the entry of the Judgment, and where the Record shows no issue, and no authority therefore, for entering a Judgment at all! It is only the fact so strangely heralded, that your opinion was delivered "within the first hour of the Term," that can excuse an assertion so hasty, and ill-considered, and entirely unauthorized. There is not a tyro in the profession who does not know better.

You say, too, that the application is founded on the notion that you ought to have treated the demurrer as a *special* one to certain parts of the Return, and on the idea that the judgment therein, if against the defendants, should have been a *respondeas ouster*, and that a judgment for the Plaintiff on a general demurrer, is not applicable to these parts of the Return. And this you think, is a misconception which can be readily shown.

The misconception, if any, is entirely your own. The statement thus made is only another evidence of your imperfect understanding of an objection which a familiar acquaintance with the rules of pleading would have enabled you to comprehend, as well as of the unhappy consequences of that precipitancy upon which you so inconsiderately plume yourselves. The counsel for the defendants indulged in no such language. He knew *his* duties better if he could not make you understand *yours*. He did not claim that you should have treated the demurrer as a special one to certain parts of the Return. He complained, on the contrary, that you *did* so treat it, when it was a *general* one, by ruling the case on *formal* exceptions, which that had cured, and insisted that if you chose to treat it as a special one—the demurrer itself being merely *hypothetical*, and entirely of your own imagining—*then* it was your duty to award a *respondeas ouster*, and allow the defendants to amend in the particulars to which you took exception. Nor did he claim that a judgment for the plaintiff, on a general demurrer was not applicable to those parts of the return. He insisted, on the contrary, that a judgment on such a demurrer must be in favor of the defendants *on the whole return*. You talk confusedly as one who was not instructed in the rules, and was not likely therefore to understand the objection which was made to your decision. A little study would have enlightened you. It was too much, perhaps, to expect that you should speak with any great precision “within the first hour of the Term.”

“The return,” you say, “was one thing. It consisted of numerous allegations, suggestions and innuendoes, all massed together, *without parts* or proportions. It had neither sections, pleas, nor any orderly arrangement, whatever. In this state it was presented on the record, as the answer. Though composed of *so many parts*, they all constituted one document—the final answer.”

You do not, obviously, like the return. It was scarcely expected that you would. Your previous opinion shows that this feeling was a sincere one. Your present indicates that you think, or affect to think, it even worse than you did before. *Then* you explored it with the microscope, until your intensest powers

of vision were exhausted. *Now* you indulge in generalities—which is always a safe mode of criticism—and language almost fails you in the presentation of its defects. A thing of this kind may, however be overdone. You carry it so far, that one is disposed to doubt whether you think as badly of it as you pretend. General and indiscriminate censure is no better than a vague and indefinite plea. It shows bad temper and worse taste, if it exhibits nothing more. When you assert that the return is massed together without parts or proportions, and without sections, pleas, or orderly arrangement—and that in the face of the return itself—the lawyer who has read it cannot but testify his surprise. When you complain that it is *without parts*, and then declare almost in the same breath that, although it is composed of *so many parts*, it is to be taken as a whole, even laymen are at a loss to know whether it was shortness of memory, or confusion of ideas which ruled the hour.

It will be conceded on all hands that this mode of dealing with a great constitutional right, has the merit, at least, of being a new one. Whether the criticism referred to was intended to be a literary or professional one, is not altogether apparent. It is a singular jumble of incongruous ideas. There is a strife for precedence between the fine arts and the law. “Allegations, and suggestions, and innuendoes”—“parts, proportions, and orderly arrangement” are delightfully intermingled, and run dancing together “in all the mazes of metaphorical confusion.” The former smack of the pleader; the latter are eminently suggestive of a page of Ruskin. A great chemist has the credit of having married science to agriculture. If you can succeed in wedding architecture to law, you would have rendered an equal service to humanity. It will be a new era, which even Bentham himself could not have foreseen, when the merits of a Return shall be measured by the divine harmonies of proportion, and the work of the pleader shall be subjected to the scale of Vitruvius, or the standard of Palladio. Posterity will thank you for the suggestion that the validity of an answer is to consist in the beauty or severity of its outline, and the fitness and adaptation of all its parts—that sections and pleas, all duly labelled, and numbered, and arranged in orderly sequence, are essential to the general effect, and that no massing of details can be allowed even for the purpose of giving unity to the picture. It would be well, perhaps, if your own judicial performances could be brought up to the same standard, and were distinguished by the play of the same harmonies. If there are monstrosities in architecture, the same may be said with equal truth in regard to the law. The *leaning tower of Pisa* is one which no judicious architect would

care to imitate. I trust your recent opinion is not intended as an example either of taste in the *belles lettres*, or of that which is true and beautiful, either in law or criticism.

Taking it, however, that your remarks were intended to be professional, the gentlemen of the long robe will be amazed, if they will take the trouble of comparing them with the Return. If it be even true that sections, pleas and orderly arrangement are at all necessary, they will discover at once, that it contains them all, in higher degree and more artistic form by far, than the opinion itself. The damage that may result from the comparison is one which the author of that return himself has no occasion to dread. Whether he will feel aggrieved by strictures like this, is more than doubtful. He might well afford to bear them without complaint, when they come from a Bench of pleaders, who could so blunder as to treat the breach of an express condition, as the subject only of an equitable plea.

But why was it that you should have thought it necessary to indulge in such a way? The tone of your remarks on this subject does not seem to be a healthy one. It is not in accordance with the canons of good taste, or, as I think, exactly reconcilable with the dignity of your position. Was it expected that this species of animadversion would be taken as an apology for your errors, or that the supposed infirmities of the practitioner would impair the public confidence in his ability or learning? I trust it was not intended as your answer to his strictures on your opinion in the Sharpless case. It is related of the Star Chamber, which in many things you seem disposed to imitate, that it cropped off the ears of one Prynne, a very learned Republican lawyer, who had written a book, which was pretended to have reflected on the Queen. The process would not answer in times like these. If it is to be superseded by the more ingenious device of suggesting the *elongation* of the same member by writing down a refractory barrister as an ass? That device might answer, when the robe was supposed to confer learning on the wearer. It will not do in Pennsylvania. It will be well for those who resort to it, to remember that it cannot add an inch to their own stature, and may, perhaps, provoke comparisons, which may not be advantageous to themselves. I doubt much, whether you would have ventured on that line of argument, if you had been in the way of a reply.

You affect to treat the whole return as "a confused mass of allegations," which you were compelled to go through, step by step, picking out what was relevant material, and say that, for your own convenience, you performed the painful operation of classifying the facts, dividing it into sections, or heads, or pleas,

and numbering them from *one* to *seven*. What will the profession and the people think of your candor and fairness, when they are informed that every one of these allegations was set forth distinctly and severally, in regular sequence, and broken up into sections, in precisely the same order as you have considered them—that you had no task of classification whatever to perform, and that all that was done by you, was to call them pleas, and number them in the order in which you found them? And yet the fact is so, as any man may see, who will give himself the trouble of taking up the return, and comparing it with your opinion! Surely, if you had but taken another hour to consider your supplemental answer, you would not have blundered into a statement so easy of contradiction, and so injurious to yourselves.

You think, however, that it was this self-imposed operation—which you did not, and had no occasion to perform—that must have suggested to the counsel himself, that some of his pleas—“as they are now called”—ought to have been separate and independent grounds of judgment—which you insist was not so, because they were only parts of a whole, which you considered and condemned as a whole.

The counsel, I think, was not disposed to borrow any suggestions from you, on the subject of special pleading. There was nothing in your opinion to recommend you as safe instructors in that branch of learning. The nomenclature was your own. There was no question with him, as to separate and independent grounds of judgment. As a merely “tolerable” pleader, he did not, and could not treat the return as anything but a whole. The want of *parts* was only a subject of complaint with yourselves. He did, however, entertain the opinion—as every well instructed lawyer must—that if there was any one fact stated in the whole return, which would amount to a defence, if well pleaded, then you were bound on well settled principles, to render a judgment in favor of the defendants. This you now deny—without even understanding him yet—in the assertion just made by you, for the first time that it has ever emanated from a Court—that the effect of a general demurrer was only to admit the facts that were *well* pleaded in the Return!!

To show, however, in what manner you reason as Lawyers, and to give you the full advantage of telling your own story, without the suspicion that you have been misrepresented, I quote the following passage from your opinion:

“To ascertain what these facts were, we were led to speak of the certainty and precision required in returns to mandamus, and were obliged to classify the facts, that we might see which of them

were sufficiently pleaded, and which were not. We found allegations of facts that were irrelevant, ambiguous, argumentative, and hypothetical, and we set them aside, as not admitted by the demurrer, nor, therefore, drawn into judgment. We rendered no judgment on them as specific grounds of defence. We simply put them out of the case. Possibly, had they been specific grounds of judgment, they would have prevailed as against a general demurrer; but they were not. We entered no judgment, as in special demurrers, to those parts of the return. What we rendered judgment upon was the return *as a whole*, and the criticisms of its facts were for the purpose of placing before our minds, in a distinct light, the facts we were to consider as admitted."

Here is something new for professional men. The effect is, that on a general Return, which requires only a plain narration, without even formal pleas or any high degree of art, and upon a general demurrer, you very coolly, "set aside" every allegation of facts, which you supposed to be general or argumentative, or hypothetical, as not admitted by the demurrer, and therefore not drawn into judgment. You tell us, with a *naivete* that is truly charming, that you "simply put them out of the case," as not being specific grounds of judgment. And upon such grounds as these, you rendered a general judgment for the plaintiff, "as, you say it was your sworn duty to do."

I am not uncharitable enough to insinuate, in the face of this solemn declaration, that you did not suppose yourselves to be doing your duty. I must be allowed to say, however, that it is extremely unfortunate, that your views of duty should be so much at variance with the rights of the citizen, and that they should not have suggested the obligation to *hear* at least before you undertook to decide. The minute and almost invisible points, upon which you have ruled this case, were not raised by the pleadings, and therefore not argued before you at all. You were bound, of course, to bring to its decision, not merely a conscience, but an *enlightened* one. If you have decided rightly without a hearing, it was a wrong, as the poet tells you. If you have stumbled in the dark, "or having ears preferred to hear not," no sense of duty can excuse your errors. It was impossible, I think, for you to have decided as you have done, if you had allowed an argument on the questions on which you ruled the case in the first instance, or had directed it even at the last, instead of deciding the case, "in the first hour of your term." There is nothing, I think, in the history of American jurisprudence so extraordinary, as the decision which you have thus made. If there is a respectable lawyer in America, who would not be shocked at it, I should like to hear from him. If there is any one who would undertake its defence, it is about

time to search him out. You have gone so far beyond even the requirements of the Relator's counsel, that I greatly doubt whether even they will indorse you. The idea that a general demurrer admits nothing but what is *well* pleaded, has not the shadow of foundation in authority. You cannot show a case in which it was ever so decided. The notion that you can discard any portion of the return—"set it aside"—"put it out of the case," and render no judgment upon it, as though you were masters of the record, and had a right to expunge any material portion of the defence, which may not exactly suit you, is a monstrous one—even more monstrous, if possible, than any thing which is to be found in your previous opinion. You took the return, as you inform us, as a whole, and did not pass upon the question at all! It was a strange idea, that, because it was a whole, you had a right to discard a part, and pass judgment on the residue—or that there was such a difference in effect, between a plea and a return, that you might do in the one case what you would not venture to do in the other! There is nothing clearer than that you were bound by every obligation which belongs to your place, to give the defendants the benefit of every part and parcel of their defence, and had no right to deny it, or to discard any portion whatever of that defence on merely technical grounds. If it be true that there was any portion of it not well pleaded, or hypothetical, or argumentative, all you could do in any state of the pleadings was to direct a *respondeas ouster*, and nothing more—not as to a part, but as to the whole. In discarding that which you allege to be faulty, you have, in effect, rendered an absolute and final judgment against the defendants on those points, in contempt of the just rights of the people, and in clear, absolute, and inexcusable violation of the rules of law. It is idle to waste words upon it. It has the force of a self-evident proposition. No pleader can excuse it. If you were wrong in the first instance, you are now as madly wrong, as though you had swallowed "the insane root which takes the reason prisoner." You have decided, in effect, that it is no defence to the people of this county that the plaintiff has no title, that the bonds were issued without authority, or that they were fraudulently procured! And in so deciding, you have declared that there is no possible defence which shall be allowed to avail them under any circumstances, and that they may be stripped, at your pleasure, of the trial by jury—the bulwark of their liberties—their highest and most inestimable right as freemen—and sophisticated out of their defences by the most contemptible of quibbles!

And this you say, is enough on refusing this motion, and

more than you would have allowed yourselves to say but for the respect you entertain for the citizens of a great county who are *apparently* represented in this proceeding.

Yes! It is enough and too much! Enough to satisfy the people that they have nothing to expect from you, and too much, if I mistake not, for either them, or you. You speak as though they held the jury trial of your gift. They are obliged to you for your condescension in vouchsafing so much. When you have occasion to speak to them again, it may not perhaps be considered by you so great a favor.

You have not deemed it, however, unworthy of you, in this connection, to insinuate a doubt whether the people of this county were actually represented in this defence. It has not been usual with Courts like yours, to indulge in such remarks as this. Why you should have done it here is a question only for conjecture. That it had a motive and a meaning, it would be a reflection on you to doubt. That you may have been induced to think that the people were only *apparently* represented, is not improbable. Whether that impression was allowed to have any weight with you in ruling this cause, is more than any body here can answer. If it was not in some way regarded as a material fact, it does not seem likely that it would have found its way into your opinion. As such, it becomes, of course, a proper subject of remark. If it be true, however, that it was treated by you as a legitimate element in the decision of this cause, you must allow me to say, that although the last of your blunders, it was not by any means the least. If there were any differences of opinion here, you have rendered a good service to the cause of freedom, by fusing them down into the most perfect unanimity. Your studied and unprofessional attempt to shake the confidence of the people in their representative, has, by a very natural reaction against injustice, only strengthened him, by damaging yourselves. Your "desire that the people should understand clearly the grounds of your judgment," is now accomplished. Your last utterances have convinced them that no defence could serve, and no professional talent save them. They looked to you in the first instance, as the proper defenders of their liberties. You have compelled them now to regard you only as their oppressors. They will henceforward look to themselves. If you think you are stronger than they are, upon a question of liberty, where they are clearly *right*, and you as clearly *wrong*, you can precipitate the collision whenever you think proper. You are industrious in the task of preparing them for it *now*. Your new emission of Writs of Mandamus from your head-quarters, in Philadelphia,

to the great municipalities of the west, commanding their appearance at your gilded chamber in Chestnut street, in violation of the very spirit of Magna Charta, and all the traditions of the English law, is only another brand cast upon the flames. The quick instinct of self-preservation, and the sense of resistance to wrong, which you seem so foolishly to ignore, will soon become universal in the western counties. When that sentiment is thoroughly awakened, as it is sure to be, there will be an end of your power. That power is a moral one. It rests only on the confidence of the people, which itself reposes only on your habitual respect for their rights. *They* are, at last, the only executioners of your decrees. While you preserve that confidence, you may command them; but no longer. When that is gone, all is gone. You peril it by such experiments. You cannot even exist in a condition of antagonism to their liberties and their instincts. You have entered upon a task in comparison with which, all the labors of Hercules were but child's play. It is far above your strength, as you will soon find, if you have not discovered it already. You cannot enslave them, although you may destroy yourselves, by such arguments as these. If you can survive the employment of them, it will be fortunate for you. The act which you have just done would have convulsed all England to its foundations. The seizure and forfeiture of the *Charters* only of the great municipalities, with the aid of supple and compliant Judges, in the reign of Charles II, had at least some plausible grounds to rest upon. The confiscation of the very *property* of whole communities by the arbitrary denial of the right of trial by jury upon such an argument as you have offered—or upon any argument at all—is a fearful experiment for an American court, which those who attempt will do well to remember, that they will be expected to justify by a logic which shall subdue the understanding, and drown even the moral instincts of the freeman.

JUNIUS.

When this scathing "Review" on the Supreme Court was issued it was spread broadcast over the State. It was intended not only as a "Review" in a legal sense, but as a propagandist's call to rouse Allegheny County and others to resistance to this mode of settling the questions at issue. It was virtually an attack on and challenge to the Supreme Court—"you can precipitate the collision whenever you think proper" was the final throwing down of the gage of battle. This was late in 1858. Early in 1859 test cases were taken to the

United States Circuit Court, Judge Grier presiding. In these, although Judge Grier complimented Mr. Williams in the highest terms and plainly indicated his belief that the decisions in the Sharpless case and all since then were wrong, the action of the State court bound him, but the case could be taken to the Supreme Court at Washington. This was counted a great victory. "Mr. Williams," said an editorial in the *Weekly True Press* of May 21, 1859, "is entitled to the public congratulations for this great result. He has fought this battle single-handed. He has encountered a storm of newspaper denunciation and obloquy, which few men would have had the courage to resist. The very Councils of the city had paid interest on these Bonds, and insisted on recognizing them." It says Williams was alone against two such giants of the law as Stanton and Shaler, but that "DAVID has smitten *Goliath*, while the proud jeers and epithets of the Philistines were ringing in his ears."¹ At the November sessions (1859), in another of the cases, *Wood vs. Allegheny County*,² Judge Grier's opinion was, in part, as follows: "If the right of a municipal corporation to subscribe, even when authorized by the Legislature, to purposes so alien to its general purpose as the construction of works of improvement which, in their largest part, are in distant counties and in other States, were open to me for consideration as a new point, I cannot say that I should hold such subscriptions other than simply void. The strongest arguments at law have been made against such subscriptions, and they are worth recurring to as containing true and lawyer-like views of the extent and character of municipal powers. But the matter is not open in this court. The Legislature of Pennsylvania has authorized counties to make such subscriptions, and the Supreme Court of the State has decided (though by a bare majority) that the act is constitutional. The views of that court upon the status of their own State bind this court." This was a moral victory for Mr. Williams and his constituents, and on the

¹ Mr. Williams was a small man in physical stature. Judge Grier's first expressions on two of the cases seemed to indicate that they had been won by Mr. Williams, but the final opinion showed him bound by the Supreme Court rulings.

² 3 Wallace Jr. Reports, 267.

strength of it the commissioners of the county refused to obey the *mandamus* of the Supreme Court and were incarcerated in jail, remaining and still refusing, on Mr. Williams' advice, until the creditors of the county made a compromise, by which, because of a reduced rate of interest, the principal of the bonds was finally admitted.¹ This, indeed, was what he aimed at, as it was the only thing that could be done under the circumstances, and the result was a saving of over a million and a quarter dollars to the community. He himself received not a cent even for his personal expenses in the long-continued fight.

He gave an account of this great contest, over a dozen years later, provoked to it by an article on the subject in the *Pittsburgh Commercial*.²

My attention has been called to an article published in the local department of your paper, during my absence from home, under the imposing caption of "the city free from liens," which was so obviously intended—though not by you, of course—under cover of a pretended historical statement, for which the subject did not call, as the vehicle of a calumnious attack on me, as to demand a notice at my hands.

It is not the first occasion on which I have been assailed in the same way. If I have made no answer heretofore, it was only because I thought I might despise a forgery so gross, and could not realize the possibility that a memorable passage of local history could be so falsified for wicked ends, within the short space of twelve or fifteen years, as to convey a monstrous lie, and be accredited as truth, on the very spot where the occurrences had taken place, and the means of detection and exposure were so convenient and accessible.

If an attempt so flagrant has proved—as it seems to have done—a partial success, it is only because within that time so many of the actors have disappeared from the scene, while a new generation, composed in large part of accessions from abroad, has taken their places upon our streets. Without this, and the presumption, founded upon past forbearance, that I would suffer it to pass as heretofore, unnoticed and unchallenged, it would neither have been hazarded in the first place, nor repeated now.

When vice grows bold, however, upon impunity, and false-

¹ Ibid. Note.

² September 7, 1871.

hood comes to be received as verity, by mere force of uncontradicted newspaper assertion, the time has come when the truth of history requires that it should be arrested and nailed to the counter like a spurious coin, and its utterers taught that they may presume too far. Happily, the facts are quite too recent here to make the experiment of falsification a permanent success, and I am not sorry that the occasion offers to impale the fraud, and, once for all, to teach its dupes how largely they have been imposed upon.

Though recent, however, these facts are still too old to make it probable that either you or your reporter could have had any personal cognizance of them. They came to you, of course, at second hand, and were published, no doubt upon the faith that your informant was to be believed, and without the suspicion that he had any interest in misleading you. He has deceived you cruelly by a story so full of distortion, and suppression, and absolute misstatement, as to give to it the character of a studied and premeditated fraud, and to show, I think, that the inventor had a purpose to serve in its concoction and promulgation at this particular time. That story has its heroes and its culprit. Whether its purpose was only to exalt the credit of others, who have more dangerous designs upon the Treasury, than even the reckless Councilmen who made the railroad debt of 1853, or to discredit and disarm the adversary, who admonished the people of their danger then, and might possibly be expected to do so now, or for both these objects, I do not know. In either case, however, while I might afford, as heretofore, to despise any attacks upon myself, I cannot consent that they shall be used to mask another and a worse assault upon the people.

Your reporter suggests that "the history of the railroad bonds, if followed out in detail, would make a long chapter, but as he has neither the data nor the time, *a statement in brief of a few facts* must suffice." If he had written that history truly, it would have furnished a lesson for the present times that would have rendered any remarks from me unnecessary. His informant did not wish it told, and he has accordingly substituted a different tale, in which the element of fact, where it appears at all, is only so travestied as to give plausibility to the merest fable. With your permission, though at the necessary expense of a little egotism, I will now set this right, by narrating the suppressed story of the folly and profligacy which so deeply involved these corporations, showing the falsity of the whole coloring in regard to the events which followed, and stating nothing, as I think, material, which will not be found sustained by the public records and the newspapers of the time.

The idea of building railroads with municipal bonds, once before defeated through my agency as far back as 1836, found, I think, its earliest and fullest development here. It was not merely a question whether these corporations should subscribe *in aid* of such enterprises, but substantially whether they should resolve themselves into *Railroad Companies*, and undertake these works *themselves*. As a citizen of Pittsburgh, with the deepest interest in its welfare, and connected through a revolutionary ancestor, who saw in it, as a frontier post, the germ of its future greatness, with the list of its "first purchasers," I could not but tremble for the consequences, as I do now for the rashness that threatens to bankrupt it a second time. Regarding the attempt to involve it in private enterprises of such gigantic dimensions, and certain failure, as an invasion of the *rights of property*, which was only another name for the *liberties* of the citizen, and an invitation to the reckless and profligate to riot in the plunder of the people, I did not hesitate to denounce it by argument and solemn protest, in the newspapers, and upon the public records, as a violation of individual right, that was fraught with both moral and financial ruin. I went further. When this great question came up, as it did, for hearing before the Supreme Court of the State, at Philadelphia, in 1853, in what is known as the Sharpless case, and the railroad companies here had sent their counsel to represent and enforce their views, while the victims were without a defender, I stepped forward and volunteered an argument of sixty printed pages, in which I foreshadowed distinctly every step in the downward path of profligacy and ruin, to the supreme catastrophe, which five years afterward wrapped all these communities in gloom.

Very unexpectedly to the public, the constitutionality of these laws was sustained by a divided Court, the then Chief Justice (Black,) who had himself arrested a like attempt on the part of the Commissioners of his own county of Somerset by denouncing it as no better than robbery, turning a *summerset* on the eve of the decision, and giving his casting vote in favor of the power. To this I answered by reviewing the opinions of the majority in another printed argument of even greater length, in which I showed, as I thought, that those opinions were not only untenable, but logically irreconcilable with each other, and gave notice that at the proper time the authority of this decision would be questioned. And of this last argument, I may be pardoned the vanity of saying, that it was many times commended by the late Judge Grier to lawyers of other States, as well as this, as both unanswered and unanswerable.

With this mischievous decision, however, to sustain them, it was vain to expostulate further with either the Councils of Pittsburgh, or the Commissioners of the county. The flood-gates were unlocked, and there was no project, however wild or extravagant, that was not sure to command their votes, with the whole press urging them on, and assuring the people that, inasmuch as the companies were to pay the interest on the bonds, until the roads were finished, these bonds amounted to no more than *loans of credit*, which would never come back to plague them. They did come back, as I told them they certainly would. No man who was not railroad mad could have failed to see that it could not be otherwise, when they were scattered about like autumn leaves, to the extent of *five millions and a half*, at heavy discounts—in some cases almost for nothing—and perhaps half the proceeds used in payment of the interest alone, the bonds in question constituting, as they did, nearly the whole capital stock of these vast enterprises. The roads broke down, of course, as soon as they had exhausted this, their only resource, unfinished, helpless, penniless, discredited and ruined, with the bonds of these corporations squandered, and nothing hardly to show for them but a few abortive excavations and embankments here and there, to stand as monuments of the folly of the public authorities and their advisers. They ceased to pay the interest of course, and the holders of the securities, which were to be only "*loans of credit*," were, at the end of five years, clamoring at the doors of a frightened Council, and an astonished people, for their six per cent., which the same newspapers, and the "business men," who paid no tax—the same parties who had cheated them by the false pretence that they made no debt—now insisted that they should meet without a controversy, for the honor of the city, and whether they owed the amount or not, by more than doubling at once the burthens of the people.

Your informant, carefully suppressing all these facts, on the plea that the truth would make too long a story, makes your reporter say, instead, that "a few years after these subscriptions were made, there was a tightness in the money market, and railroad stocks declined, particularly those in which the city had invested so largely, and it was being *pushed*, &c."

Here is a double falsehood, and a *mean* one, too—so mean and *sneaking*, if you will allow the word, that the man who uttered it must have hung his head in doing so. The money market, was, I think, no tighter than usual. If it had been, however, no decline in *stocks* could have had anything to do with the payment of the interest on the bonds, as the companies had no stocks to sell, and the city was not to pay. But even if it was,

and your informant meant that the stocks, which he thinks ought to have been kept, were its resource for doing so, there had been no decline in them, because, in point of fact, they had never had a dollar of marketable value. The trouble was that the bonds were exhausted, and the companies had no further means to pay the interest, and, *therefore*—and not for any other reason—"the city was being pushed" for it, as I told them in advance they would be, and such men as your informant, who now think that it can make a bigger debt upon a worse pretence, without being "pushed" hereafter, assured them to be impossible. How softly he puts it! "The city was being pushed"—not because the Councils had been fools, and the people dupes—but because "*the money market was tight and Railroad Stocks, particularly its own, had declined.*" Does he think that your readers are fools, and that he can impose such chaff as this upon them now as history? The counterfeit is quite too patent to impose on anybody. I doubt whether it could even pass muster in the Councils.

He proceeds to say, however, that "*by the advice of a prominent lawyer*"—meaning, of course, myself—"the city, instead of compromising the claims, and thereby saving her credit, and saving *thousands* of dollars at the same time, permitted the stocks to be sold at a sacrifice, much of it bringing only *ten* cents on the dollar," which, by the way, was a little more than the bonds of the neighboring borough of McKeesport cost the *honest* holder who demanded *cent per cent.* "The city," he proceeds, "had now a debt of \$1,800,000 with accrued interest, and not a dollar in stocks or anything else but *experience*, to show for it, and in 1863, *it was resolved* to make the best of a bad bargain by compromising the *six* per cent. bonds at *four per cent.*, which was effected, and the greater portion taken up."

Here is another falsehood, blended with much distortion, and just fact enough to leaven the whole mass for popular consumption.

It is not true, in the first place, that there was any offer to compromise until the bondholders were *forced* to it, by the resistance which was made under my advice, and through my sole agency in the Courts. When the Roads defaulted, they came upon the city, and although those bonds, in many instances, had been purchased by them for the merest trifle, insisted rigidly upon their pound of flesh, according to the letter of the contract. The newspapers and "business men," who paid no tax, as I remarked before, came to their aid with one accord, insisting that while every other debtor may honestly defend in Court upon a want of *power*, or want of *consideration*, or on the ground

of *fraud*, it would be highly dishonorable for an innocent people to object to pay the Kings of the money world, who had bought their bonds at heavy discounts, with notice of a lawsuit, whether they owed them or not, and infamous for a lawyer to volunteer his aid in a cause where his own liberties were at stake as well as theirs; and urged accordingly that the Councils and Commissioners should provide forthwith by a levy of taxes for the payment of the interest. With the latter they succeeded, until the people themselves stepped in, and set the order aside. Whether they were equally successful, in the first instance, with the Councils, I do not now recollect.

To all this, however, I objected on the ground that the whole question, depending, as it did, on the incongruous and self-contradictory opinion of a divided court, was still an open one, and that besides, the bonds themselves, which, as *specialties*, could not properly fall within the rule of the law merchant, were in some instances fraudulently procured, and put in circulation, and in many held by the owners upon little or no consideration. The people agreed with me, and the bondholders were driven to their remedy at law. Instead, however, of coming here in the spirit of the Great Charter, which insured to every man the right of a trial by a jury of his *vicinage*, they applied to the Supreme Court, then sitting in Philadelphia, for the high prerogative writ of mandamus, to compel the Councils and Commissioners to levy a tax to pay the interest on these bonds, with the obvious purpose of avoiding the doubtful issue of a trial. I answered it at Harrisburg, with the double objection that their process could not run throughout the State so as to give jurisdiction there, or at Philadelphia, over a Pittsburgh cause, and that on principle, and by the well settled law and practice of the Court, a mandamus would not lie until the claim was first established by a trial and *judgment* in the ordinary way. The law was so undoubtedly, as more than one decision showed. It was in vain, however, that I relied upon the authority of their own solemn decisions. The bond holders were allowed to have their own way. The case, however, was adjourned to Pittsburgh, in deference to the former of these objections, and there forced to argument *without an issue*, and adjudged against the people upon a record that will ever remain a marvel to posterity—a record which decides, in effect, that it made no difference whether the subscriptions were fraudulently procured—whether the bonds were issued without authority—whether the plaintiffs had any interest—or whether they paid anything for them or not—the court refusing to reconsider their previous opinion on the question of power, for no better reason than because it had been

decided before, though by a bare majority. That decision was reviewed by me in a series of letters over the signature of Junius, which were afterward collected and republished, and largely circulated throughout the State. I could say more about it, but I am content to leave its merits upon that review. The Commissioners and Councils refused to pay the tax, and the former were again summoned from their homes to Philadelphia, to answer for the contempt. I appeared there for them, after instructing them that their own presence was unnecessary. The court refused at first to hear me in their absence, but changed their minds on argument—the Judge, who seemed to exhibit the most feeling throughout, and then added to his other labors the somewhat extra judicial function of President of an Insurance Company, holding railroad stocks and bonds, enacting the unusual role of a withdrawal from the bench, because his brethren thought it best to hear me. The Commissioners proved obdurate, and were imprisoned. The Councils, I believe, escaped under promises of conformity, with no other infliction, beyond a *moral* lecture from the then Chief Justice, who had passed over to the other side, after himself denying the constitutionality of these laws.

The bondholders now considering the path cleared, but the remedy perhaps too inefficient for their purpose, carried their claims into the Circuit Court of the United States, where, upon a first trial of a week's duration, under every possible discouragement from the press, I was fortunate enough to astonish the town, and disconcert their advocates, by overthrowing the claims founded on the city Allegheny Valley, and second Steubenville subscriptions, to the amount of \$650,000, Judge Grier himself being so shocked by the developments, as to have felt constrained to declare openly from the Bench, that the whole affair was no better than highway robbery, that I had been "right and always right," in law and morals upon this question, and that if he had been judicially called upon, in the first place, he would have issued an injunction to put a stop to it. This verdict, it is true, was afterwards set aside by him, mainly, as I think, in deference to the opinion of the Supreme Court of the State, as being the proper judges upon any question arising under the *State* Constitution, but I may now indulge a just pride in saying, that while my view of the question as a statesman and moralist was fully justified by the profligacy and ruin that followed this ruthless invasion of the rights of property, as well as by the rapid intervention of the people themselves, in so amending the Constitution as to prevent like outrages in the future, my judgment as a lawyer is now as fully vindicated by the more tardy repudiation

in the Broad street paving case, by the Supreme Court itself—the responsible author of all this ruin—of the anti-social and incendiary doctrines of the ill-omened (Sharpless) case, which lighted the consuming brand that threatened the devastation of the entire State. So true it is, not only that there is an avenging Nemesis on the track of every great wrong, but that right and justice are always sure to prevail at last.

But this imperfect sketch would but inadequately represent the burthen imposed on me, without a reference to the unequal struggle with a hundred voiced, and hundred-handed power, that could subsidize its legions of mercenaries, to disparage and defame the advocate who was bold enough to challenge it, in the courts and in the press, and for whom all its resources could find no better answer. Trusting to the power of hard names to delude the simple, and discredit the brave, the commercial papers of the Eastern cities, with such editors as Forney, and others of higher type who ought to have known better, with a host of parasites who never paid a private debt themselves, were unleashed on me with the unmeaning cry of “repudiation,” for the first time perhaps that a lawyer has been assailed for defending his clients and his liberty, since the era of the star chamber. It made no difference that he was personally above impeachment, and in all respects the peer, at least, of the best of his assailants. It did not avail him that the whole question in dispute, as put by the Supreme Court itself, was simply one of the exercise of a taxing power, that was claimed to be illimitable, and without even the pretence of a voluntary *contract* with those who were sought to be enslaved. It was the same question precisely that carried John Hampden into the courts, to defend against a principle, which, as Lord Clarendon remarks, “would have left no man in England with any thing that he could call his own.” It was the very analogue of the struggle against unlawful taxation that passed to the issue of the sword, and detached these colonies from the British crown. If it was *repudiation here*, it was equally repudiation *there*, and the men who sought to discredit it by such a cry, would have sold themselves to the prerogative in the first case, as they would have maligned the men of the revolution in the second, if money had been as abundant then, and had ruled the world as imperiously as it does now. Many of them no doubt were incapable of rising to the comprehension of so great a question, but it was a melancholy comment on the progress of liberal ideas amongst a free people, to find that the *commercial* spirit had dethroned the *moral* code so far, that an American court could be induced to rule that a merely *implied* power of taxation was uncontrollable by even the

considerations of *equality*, or *uniformity*, or *public use*, and might be employed to strip the citizen of every dollar that he owned, while American editors had come to look upon the pawning of the estates of whole communities of freemen, without their own consent, by the mere fiat of a usurping Legislature, to the Jew bankers of Hamburg and Rotterdam, as a mere *business transaction* on 'Change, and with the same indifference as the sale of their own subjects by the trading princes of Hesse and Brunswick and Wurtemberg, and not a voice could be found even at home, except through the establishment of an independent press, which taught through me the alphabet of freedom. Although they may have carried their cause, however, by this betrayal of the principles of liberty, they did not destroy or paralyze the advocate, whom they failed to answer, and as I have already remarked, that in other cases my opinions have been fully vindicated in the end, so I may now add here, that when within two or three years afterwards I was called upon to defend the people of this county against the same charge, in the Legislature of this State, the answer I gave drew from the *Philadelphia Ledger*, the leading commercial paper of that city, and the one which had perhaps found most fault with me, the following honorable and manly acknowledgment, cut out and forwarded to me by a friend, which is one of many that have followed the misrepresentations of the hour, from my antagonists themselves, in almost every important passage of a life that has brought me into frequent conflict with opinions which I never hesitated to question, without regard to their effect upon myself.

"Mr. Williams made a reply, which for power, eloquence and able reasoning, is seldom excelled in any legislative body. The bold stand he takes for the right, and authority of the people over their own property, and against unconstitutional enactments, which would deprive them of it, is worthy of Patrick Henry himself. It is rare that such speeches are heard in the Legislature of this State. If there were more of the same spirit, and the same recurrence to fundamental principles of popular rights, which underlie all constitutions, we should not have the Legislature so frequently usurping power not delegated to it by the constitution, nor courts coming in conflict with public sentiment, founded upon common sense, common honesty, and common liberty. Hitherto we have differed from Mr. Williams in regard to the obligation upon Allegheny to pay the bonds it issued, because they were issued under the forms of law by legally authorized persons. But there is no logic like the logic of facts, and the most certain way of seeing the force and bearing of a principle is to have it applied to one's self. The city of Philadelphia would this day have had three millions

of dollars added to its present debt by the act of its County Commissioners, in lending that amount out of the County Treasury to the Sunbury and Erie Railroad, if the timely interposition of the people in town meeting had not stopped their usurped authority. In fact, radical and fundamental principles of right, when wrested by power from the people, are always stolen from them under the forms of law, and for the peace and security of society, there ought to be some remedy short of revolution to arrest acts of unauthorized power."

And yet there are men even at this day in the Councils of Pittsburgh, thinking no harm themselves in using their public trusts by creating new and enormous burdens, only to serve their private interests, who have the courage to tell the people of Allegheny county, who saved so largely by the result of that struggle, that they not only lost *three millions and a half*, but their *characters* for all time along with it, by their *defender* and *defense*!

It was only, however, as a consequence of this obstinate and determined resistance, aided as it was by the Councils and Commissioners, under the direction of the people, whom I am charged with having mislead, in their refusal to levy taxes to pay this alleged debt, that the holders of the bonds were brought to see, that, though the Courts might unjustly help them, the expenses of repeated suits for interest against a reluctant and resisting debtor, were fatal to the value of their securities, and that the best thing they could do was to compromise the claims. That I ever objected, however, to a compromise, is just as gratuitous a statement as the others. It was precisely what I aimed at from the moment that it became apparent that the constitutionality of the laws would be sustained by the Supreme Court, and there was a time when I thought, that if the adjustment had been left with me, I could have accomplished it at *forty cents on the dollar*. When it *was* made, I was not consulted as to its terms. To say, however, that it depended only on a *resolution* of the Councils to do this at any time, as though they were the masters of the situation, is to state what everybody who had anything to do with the matter, knows to be *untrue*. All they were able to accomplish at last was brought about through my unpaid agency. If you doubt it, turn to the files of your own paper, about three years back, and you will find an article from Forney's *Press*, covering, under the thin disguise of a distinction of personalities between a lawyer of the same name here—much younger and much less known to the profession and the people—and myself, an attack on me, inspired obviously by the idea that it might help himself in some of his rather unfor-

tunate political aspirations, of which the burden was, that *I had robbed* the virtuous bond-holders of twenty-five per cent. of their money, by coercing them into a compromise. Other newspapers of my own city, it is true, were insisting about the same time, that I had added to the debt; and it is evident that there are credulous people in these communities, who have been weak enough to swallow such absurdities, although the result shows in figures, that, in some way or other, the city of Pittsburgh alone, instead of losing money by that controversy, has saved over *a million and a quarter* in interest, without reckoning on the additional rate which must have attended the renewal of the bonds under the happy auspices of consolidation. It is not to be wondered, perhaps, that the people were credulous, when the very inventors themselves seem to have become the dupes of their own falsehood. It was fortunate, perhaps, for me that they went no farther. At the same rate of progression, in a few years more they would have been prepared to swear, that I had not only added to the debt, but *made* it. You must agree, I think, that it is a curious fortune and a singular reward for disinterested services to this community, that one of its oldest citizens, dating his interests back to its foundation—holding an honorable position at its bar—representing its people in their highest legislative trusts in State and nation, with no obscure record in either to discredit them—and without impeachment of his intelligence or integrity in any position where they have ever placed him—should be charged abroad with having robbed the bondholder, and at home with having robbed the people whose cause he was defending without reward, and for whose sake he had incurred all the obloquy that the money power, with all its mighty machinery of detraction, could heap upon him. If he had been a citizen of Philadelphia, with a like professional and public record, I doubt whether there is a newspaper there that would have allowed him to be thus assailed with impunity. Whatever may be the faults of that city, her people have one virtue at least, and that is to stand by their own men. There is little of that pride, unfortunately, here. We seem to prefer to disparage ours, although they may have been the peers in the forum, and in the legislative halls of the State and nation, of the best of her own, who have been commissioned to speak for her in either. I am not sure that there are not manufacturers of public opinion here that would have stoned the prophets, if they had been reared amongst us, or that, if there had been an Aristides in this county, he would have fared any better than him of Athens. Nor do I say this with any feeling that I have been undervalued myself. The people of this county have valued me

quite as highly as I deserved. They have so often honored me with their confidence, as to have left me nothing further to desire on that score. If I have justified that confidence by a performance that did not disappoint them, it is enough for me. I think I may flatter myself that, with those who know me, it has never been impaired by any abuse that I have received.

But it is further said by your informant, that by the same advice "the city permitted her stocks to be sold *at a sacrifice*, and was left with a debt of \$1,800,000, with accrued interest, and without a dollar to show for it in stocks or anything else, except *experience*, and suit was brought and the stocks levied upon."

Here is another falsehood. I never gave any advice upon the subject. The stocks were not sold (as they could not be without a judgment) until a very late period, and long, I think, after I had ceased to have anything to do with the case—and they were not sold either at a sacrifice upon their value, but for all they were intrinsically worth, which was just *nothing at all*, as the irretrievable bankruptcy and subsequent extinction of both the Steubenville and Chartiers, covering nearly one-half the amount, show clearly as to *them*. The investments were absolutely sunk and lost and not considered by anybody as worth looking after, when the city conveyed away its gas stocks to protect *them*. It was not, however, intended to withdraw the railroad stocks from the pursuit of the creditor. To have repudiated the bonds, and yet insisted on holding on to the stocks, which had been exchanged for them, would have been not only inconsistent, but dishonest. To them, at least, it was conceded on all hands that the creditor was entitled. It was not till he had established his claims in the Courts that the city could properly deal with them as her own. When that happened, they were still worthless, and could only have been saved by shouldering the whole debt.

Inasmuch as I left the bar, and passed into public life as early as January, 1860, I know little or nothing about the history of the sales, or the subsequent transfers of the stocks, except that I thought when I heard of the former, that the process was irregular, and always doubted whether any titles had passed thereby to the purchasers. It may be that the subsequent proceedings to reclaim some of them were founded on this objection. I know nothing about it. If any portion of this great wreck was subsequently saved by Mr. Phillips, as is claimed, it was no more than was his duty, if he was one of those who helped to make the debt, and assured the people that it was no more than a *loan of credit*. I have not heard, however, that he or anybody else, except perhaps myself, has lost any money by disinterested serv-

ices to these communities; and, while I am willing to accord to him all reasonable praise for any thing he may have done, I would fain hope that, for his own sake, he will not cancel the obligation many times over, by even a greater and less pardonable blunder than that of the Railroad Councils of 1853, in trebling our present city debt for objects that are entirely unnecessary. Your reporter is made to say that "the city was left with a debt of \$1,800,000 and accrued interest on account of railroad stocks, and not a dollar in stocks or anything else but *experience* to show for it." The city was no worse off *after* these stocks were sold, than she was *before*. She has, however, as it is confessed, the *experience* still left, and if she will only profit by this residuary fund, it may be still worth all that she has lost. It seems, however, as though the folly of the Councils is to be repeated under cover, perhaps, of the exaltation of others connected with the attack on me. An old proverb says "it would take a hard winter to kill off all the fools." There are some people who never *learn*, but there is no experience hard enough to kill off a much worse class.

It is urged, however, by your informant that "the city could have saved her *credit*, and with it *thousands* of dollars," by shouldering the debt and keeping the stocks in question.

Nothing is clearer, however, than the fact that her credit did not suffer at all, as is shown conclusively by the extension of the *time*, and the reduction of the interest to *four* per cent. Consolidation has brought it up to *seven*, and promises to carry it still further, and yet members of Councils who do not object to exaltation at my expense, think that it is still good enough to authorize them to add five or six millions of debt for unnecessary water works, and a park that will cost a million for embellishment, and the interest of another million annually, to light, and watch, and keep it in repair. Surely it does not become such gentlemen to say that the credit of the city was *lost* under my auspices in 1863, or that it might have been *saved* by increasing its debt, and renewing it now at the new consolidation rate, unless they think, as seems probable from their present action, that the bigger the debt and the larger the interest, the higher will be the credit of the corporation.

But then, if it did not save its *credit*, your readers are told that it would at least have saved *thousands* of dollars!

Well, it did save, not *thousands*, but over a *million and a quarter*, by the compromise. Was this too much? Ought it to have thrown all this away for the sake of *thousands*?

But how was it to save these thousands? Why—as I have seen it seriously argued, somewhere—by taking the stocks as

they are now, and reasoning *backward* about *ten* years, just like the simpleton, who now complains, that if he had not sold his property ten years ago for all it was worth, or ever likely to be worth thereafter, he might have been a *millionaire*. But how would even this have resulted in the present case. The \$700,000 subscribed to the Steubenville and Chartiers, are absolutely sunk and extinguished. But then the Connellsville and the Allegheny Valley Roads have been revived and prosecuted to completion, so that their stocks have now a speculative value of some sort, at least, although I have never heard that it rests upon any dividends that they have paid, or are likely to pay in the near future, that could have made it an object to hold them indefinitely at a six per cent. interest. Well, be it so. But how did they come to quicken into new life? Just because they first died to us, as their proprietors. With our money squandered and lost, and no work done to speak of, it was an essential condition of their resurrection, that they should pass, at a merely nominal price, into other hands. It was idle and unreasonable to expect that with perhaps a million's worth of work done upon nearly two millions and a half of bonds, any third persons would be found generous enough to step in and finish them at their own cost and risk, and allow us, the almost sole proprietors, to reap the whole advantage of it. If we had retained the stocks, the works in question would have been unfinished now. They were taken up and completed by the same process as the now invaluable Monongahela Improvement, which, under my own advice, was saved by a few liberal and long-sighted gentlemen here, through a previous bankruptcy which enabled them to get in the old stocks, and to make fortunes, as they deserved, out of a then abandoned enterprise. Nothing is clearer now than that, under the circumstances, the very best bargain the city and county could have made, would have been to *donate* their stocks to any third parties who would have agreed to finish the roads. To have staked a *million and a quarter* for their preservation, without the remotest hope of a dollar of dividends, and with the moral certainty that by enacting the part of the dog in the manger in holding them, the roads could never be finished, would have been about as sensible an operation as some of the big jobs that are now occupying the attention of the Councils. I hope they will not be asked to repurchase them on speculation for the endowment of the Park, which has been promised to the people for nothing, if they would only agree to put up half a million on the venture.

Your reporter is made to say that the fees of the bondholders' attorneys were estimated at \$60,000 or \$70,000, which is not,

probably, above the mark. It might have been as well perhaps to have informed the people, how much it cost the city in that way for its defence. Its own counsel, with a practice as large and as widely diffused as that of any other professional man in the State, was in equal condition, as every lawyer here knows, to choose his side. Did he take the paying one? When applied to by the President of one of the largest of these roads, to take charge of its professional business, his answer was that his services could not be purchased where they might bind him to give countenance, even by his silence, to the robbery of the people. When he tried the first of these causes before Judge Grier, he was twitted by Judge Shaler, who was of counsel with the late Secretary Stanton, for the claimants, with the remark that for all the immense labor he had given to the discussion of this question in the Courts, and through the Press, he would never be paid, or even thanked. There are men here who still remember that in the very heat of the conflict, he prefigured the same result himself, along with obloquy *abroad*—but *not at home*. His answer was, that however it might be with others, it was not a question of either *pay* or *thanks* with him, when the liberties of a people were staked upon the issue. It was the same answer in effect which he gave to the same Secretary, about two years afterwards, when, after telegraphing to him, as he did, within a very few days after his appointment, to repair at once to Washington in order that he might confer with him upon the state of the nation, and some of the great questions of public law that were evolved out of the war, and detaining him a week for that object, he addressed a note to him, suggesting that the Government was able to pay, and could not expect his services for nothing, and asking him to make out his bill against it. That answer was that the Government owed him nothing; that it wanted all its money for its soldiers; and that he would consider himself well paid for any little service he might have been able to render to it, if the nation could be saved. Judge Grier was pleased to volunteer the further answer himself that “if Mr. Williams should charge the city of Pittsburgh the sum of \$10,000 or \$20,000 for his services, and would call upon him as a witness—as it was a case he could not try—he might rely on him to prove that he had richly earned every dollar of it.” He never received from either city or county, even the amount of his personal expenses, and never asked them to pay him, although he had appeared to perhaps fifty cases, had tried and argued many of them in the State and Federal Courts—some at Philadelphia and Harrisburg—and had ended by turning his back upon a tribunal before which he was one of the largest practitioners,

because, as then organized, it had lost his confidence and respect. He did not ask them to pay him, because he thought the people had burdens enough already, and that he could afford to serve them in such a cause for nothing. There are men now in Councils—and leading one too—ignorant enough to think he made the railroad debt, who would waste the sum upon a *dinner, and quadruple that debt* without a scruple at a single sitting, upon a pair of jobs with even less to recommend or excuse them. Judge Shaler proved to have been a prophet. His vision, however, did not carry him far enough to see, that the man who was capable of all these sacrifices, and had been maligned abroad, as few other perhaps have been, for the faithful performance of a high professional and public duty, was to receive his reward only in calumny at home.

Honest people who are unfamiliar with these facts, as are perhaps three-fourths of the present population of these communities, who read the newspapers and are in the habit of taking their statements upon trust, will not be more greatly amazed at the effrontery that would venture to falsify a record that is yet so fresh, than they will find it difficult to realize, that such a recompense was possible in the face of such a service. Few perhaps would have believed that a professional man, holding the same position as myself, and not overlargely endowed with the world's goods either, would have put aside the mere lawyer, and turned his back upon the emoluments of his profession, to do battle unrewarded, in the defence of a great principle of public liberty. Some there may be who are incapable of appreciating the merits of such a sacrifice, and think no harm in paying such quixotism, as they would no doubt call it, back with slander. For myself, I have to say that I have never followed the law upon any of the baser motives that have been so liberally imputed even to the most honorable of the profession. As one of the humblest ministers at the high altar of justice, I have never consciously espoused an unjust cause, or abandoned a just one. In defending the people in the railroad bond cases, I was not only defending the cause of public and private morals, but those elementary principles of public freedom, without which no State can be secure. In my public capacity, where my name stands intimately associated with much of the legislation and some of the most memorable passages in the history of the State and nation, the people know whether I was true and constant, and whether they had any reason to be ashamed of the way I served them. In my private walks as a citizen, they have had no advice from me that ever did them injury. If they had listened when I spoke, there would have been no railroad debt. In taking

my advice to resist injustice and tyranny, they saved millions in interest. If they had heeded my warnings the best street in the city, which is now encumbered and well nigh ruined, would have been, like their treasury, at this day free. If they had regarded my prophecies of only three or four years since—already verified to the letter—they would have avoided the rocks on which they are now driving with such headlong impetuosity. When the vessel strikes again, they will, perhaps, regret, as they did before, that they did not take advice from a friend who never deceived them. I trust that in the future they will find no worse counsellors than myself.

THOS. WILLIAMS.

ALLEGHENY, August 17, 1871.

So with this letter that phase of the railway war may be counted closed, except that, in passing, it may be noted that the amendment of 1857 was carried over into the present Constitution, and when, in the convention that formed it, some one ventured to reflect on Pittsburgh on this score, the city and her course received such a splendid defense at the hands of the late Judge J. W. F. White as any city or man could desire.¹ It is only that particular phase of the railway war, however, that was closed. The success of Mr. Williams in rousing sentiment, not only in Pittsburgh, but elsewhere over the State, precipitated a still more extensive fight to be carried out, this time in the halls at Harrisburg. And, now, while preparations were making for this contest, there joined it, with most unexpected and appalling developments, as shall be seen, the stupendous series of events inaugurated by the national executive committee of the Republican party, when they met in New York and voted that the member from Pennsylvania, Mr. Williams, should write a call for a national convention, to meet at Chicago in June, 1860, to nominate candidates

¹ "Constitutional Convention Debates," 1872-73, Vol. VI, p. 145. "If they knew the history of that matter," said he, "they would know this: That there were certain railroad bonds which were fraudulently put in the market and sold in violation of the law under which they were issued; and in place of being sold as the law required, for very nearly par, they were parted with at less than one-half the face of the bonds; and we thought in Allegheny county when the bondholders had got those bonds in violation of the law, they ought to get merely what they had paid on those bonds, because they had become parties to the violation of the law, when they purchased the bonds in the very teeth of the act of Assembly." "If gentlemen knew what they were talking about they would know that neither Allegheny county nor the city of Pittsburgh ever did repudiate any debt." "Never tried to repudiate anything."

for the highest offices in the land.¹ He went to Washington where Douglas and Jefferson Davis were occupying the time of the Senate, and the House was in the throes of a deadlock over the Speakership, in which an opposition was trying to prevent John Sherman's election in a most violent partisan conflict, because, among other things, he once recommended Helper's "Impending Crisis." "It was," said Mr. Williams in a speech not long after, "in the very midst of the tempest and fury of denunciation on the floor of Congress, and while the Council Chamber of the Nation was ringing with the treason, which the galleries were applauding to the echo, that the invocation to the friends of the Union, which is to be found in the call that gathered the people together at Chicago, was penned by my own hand."²

The call appeared in Mr. Greeley's paper on the morning of December 23d (1859). "A National Republican Convention," it began, "will meet at Chicago on Wednesday the 13th day of June next at 12 o'clock (noon), for the nomination of candidates to be supported for President and Vice President at the next election.

"The Republican electors of the several States, the members of the People's party of Pennsylvania, and of the Opposition party of New Jersey, and all others who are willing to cooperate with them in support of the candidates who shall then be nominated, and who are opposed to the policy of the present administration; to Federal corruption and usurpation; to the extension of Slavery into the Territories; to the new and dangerous political doctrine that the Constitution, of its own force, carries Slavery into all the Territories of the United States; to the reopening of the African slave trade; to any inequality of rights among citizens; and who are in favor of the immediate admission of Kansas into the

¹ In a letter dated Philadelphia, December 23, 1859, Mr. Williams writes his wife: "I arrived safely in New York on Tuesday, about one o'clock & left that place on my return at six last (Thursday) evening, which brought me here about ten o'clock at night. You may take it for granted therefore that I saw very little of New York. The business of the Committee was such as to engage my whole time. When it adjourned which was about 2 o'clock yesterday, I crossed the Park to the Tribune and Century Offices, which are just about 150 yds from the Astor House, where I stopped, & that was just the extent of my perambulations in New York."

² "The Negro in American Politics," a speech delivered in 1860, p. 34. Williams papers.

Union under the Constitution recently adopted by its people; of restoring the Federal Administration to a system of rigid economy, and to the principles of Washington and Jefferson; of maintaining inviolate the rights of the States, and defending the soil of every State and Territory from lawless invasion; and of preserving the integrity of this Union, and the supremacy of the Constitution and laws passed in pursuance thereof against the conspiracy of the leaders of a sectional party to resist the majority principle as established in this Government at the expense of its existence are invited to send from each State two delegates from every Congressional District and four delegates-at-large to the Convention."¹

This was a call, said Mr. Williams, that proposed above all else that "the Union must and shall be preserved." This "was the dominating thought with me," he added, "as it was, I believe, with every member of the committee." Such was the call out of which flowed a stream of events of such magnitude as the world had never beheld.²

¹ It is probable that Mr. Williams had brought this already prepared to the meeting of the national executive committee at the Astor House, New York, on December 21, 1859, for he writes a letter from Philadelphia to his wife on the 23d, the very day it appeared in the *New York Tribune*, and the committee had adjourned only at 2 o'clock the day before. The previous preparation of a call to offer to the committee would be wholly in keeping with Mr. Williams' habits. He had had much experience in public appeals, as will be recalled. The paper was signed by Messrs. Morgan, Bartlett, Fogg, Brainerd, Goodrich, Chase, Wells, Williams, Harris, Caldwell, Spooner, Clay, Ritchie, Judd, Chandler, Tweedy, Ramsey, Stevens (not Thaddeus), Jones, Conway and Clephane. They debated a long time on the call before this one was adopted. Eleven cities wanted the convention, and St. Louis, which was favored for a time, was "finally judged as inconvenient as West of nineteen-twentieths of the delegates;" so Chicago was chosen.

² On the 25th the *Tribune* correspondent at Washington said: "The call issued by the Republican National Committee for a Convention is generally acceptable here, and relieves all points of embarrassment." See files of the *New York Tribune* in the Astor Library, New York.



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